

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Joyce L. Burkheiser

Case Number: 21-00694

vs.

Respondents  
Morgan Stanley  
Kal Viljo Jamsa

Hearing Site: Boise, Idaho

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Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customer vs. Member and Associated Person

This matter proceeded pursuant to Rule 12800 of the Code of Arbitration Procedure (“Code”).

This case was administered under the Special Proceeding option for simplified cases.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Joyce L. Burkheiser (“Claimant”): Kathryn A. Salfingere, Caldwell, Idaho.

For Respondents Morgan Stanley and Kal Viljo Jamsa (“Jamsa”): Kathleen Salvaty, Esq., Morgan Stanley Legal and Compliance Division, Los Angeles, California.

Hereinafter, Morgan Stanley and Jamsa are collectively referred to as “Respondents”.

**CASE INFORMATION**

Statement of Claim filed on or about: March 15, 2021.

Claimant signed the Submission Agreement: March 28, 2021.

Statement of Answer filed by Respondents on or about: May 20, 2021.

Morgan Stanley signed the Submission Agreement: May 20, 2021.

Jamsa signed the Submission Agreement: June 8, 2021.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; elder abuse; breach of contract; failure to supervise; and negligence. The causes of action relate to Claimant's traditional individual retirement account and Active Assets Account held at Morgan Stanley.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. Compensatory damages in the amount of \$34,577.83; and
2. Attorneys' fees in the amount of \$15,422.17.

In the Statement of Answer, Respondents requested:

1. All claims stated in the Statement of Claim be denied; and
2. Such further relief as the Arbitrator deems just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are denied.

### **FEES**

Pursuant to the Code:

#### **Filing Fees**

FINRA Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Claim Filing Fee = \$ 600.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Morgan Stanley is assessed the following:

Member Surcharge	= \$	750.00
Member Process Fee	= \$	1,750.00

**Discovery-Related Motion Fees**

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	200.00
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Respondents submitted one (1) discovery-related motion		
<hr/> Total Discovery-Related Motion Fees	= \$	200.00

The Arbitrator has assessed the total discovery-related motion fees to Claimant.

**Hearing Session Fees and Assessments**

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: July 9, 2021	1 session	

One (1) hearing session @ \$450.00/session	= \$	450.00
Hearing: November 4, 2021	1 session	

<hr/> Total Hearing Session Fees	= \$	900.00
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The Arbitrator has assessed \$675.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$225.00 of the hearing session fees jointly and severally to Respondents.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

**ARBITRATOR**

Dean J. Dietrich

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

**Arbitrator's Signature**

***Dean J. Dietrich***

Dean J. Dietrich  
Sole Public Arbitrator

**11/10/2021**

Signature Date

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November 10, 2021

Date of Service (For FINRA Dispute Resolution Services use only)