

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

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In the Matter of the Arbitration Between:

Claimant  
Carol Keene

Case Number: 21-01144

vs.

Respondents  
Morgan Stanley  
Yuji Fujii  
Anthony Vincent Valente  
Ronnie Guidone

Hearing Site: Albuquerque, New Mexico

Cross Claimant  
Ronnie Guidone

vs.

Cross Respondent  
Yuji Fujii

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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 Persons  
  Associated Person vs. Associated Person

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

Claimant Carol Keene appeared pro se.

For Respondents Morgan Stanley, Yuji Fujii (“Fujii”), and Anthony Vincent Valente (“Valente”):  
Abigail D. Elrod, Esq., Morgan Stanley, New York, New York.

For Respondent Ronnie Guidone (“Guidone”): Stephany D. McLaughlin, Esq., Eccleston Law, LLC, Chicago, Illinois.

Hereinafter, Morgan Stanley, Fujii, Valente, and Guidone are collectively referred to as "Respondents".

### **CASE INFORMATION**

Statement of Claim filed on or about: May 25, 2021.  
Claimant signed the Submission Agreement: May 2, 2021.

Statement of Answer filed by Morgan Stanley, Fujii, and Valente on or about: July 14, 2021.  
Statement of Answer and Crossclaim filed by Guidone on or about: July 14, 2021.  
Answer to the Crossclaim filed by Fujii on or about: August 3, 2021.  
Morgan Stanley, Fujii, and Valente signed the Submission Agreement: July 14, 2021.  
Guidone signed the Submission Agreement: July 13, 2021.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; unsuitability; misrepresentation; omission; commissions; fraud; failure to supervise; and negligence. The causes of action relate to unspecified securities.

Unless specifically admitted in the Statement of Answer, Morgan Stanley, Fujii, and Valente denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

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

In his Crossclaim against Fujii, Guidone asserted defamation as the sole cause of action.

In the Answer to the Crossclaim, Fujii denied the allegations made in the Crossclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$50,000.00 or less.

In the Statement of Answer, Morgan Stanley, Fujii, and Valente requested:

1. Dismissal of all claims in the Statement of Claim in their entirety;
2. Costs in defense of this proceeding; and
3. Expungement of this matter from the Central Registration Depository ("CRD") registration records of Valente and Fujii.

In the Statement of Answer and Crossclaim, Guidone requested:

1. The Statement of Claim be dismissed/denied in its entirety;
2. All references to Claimant's complaint and the Statement of Claim be expunged from Guidone's CRD records maintained by FINRA pursuant to FINRA Rules 2080 and 12805;
3. Compensatory damages on his crossclaim against Fujii;
4. Punitive damages against Fujii;
5. Attorneys' fees and forum costs against Fujii; and

6. Such other and further relief as the Panel deems just and equitable.

In the Answer to the Crossclaim, Fujii requested:

1. Dismissal of the crossclaim in its entirety; and
2. Costs in defense of the crossclaim.

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

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On December 9, 2021 Claimant filed a notice of voluntary dismissal. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On January 19, 2022 Guidone filed a notice of settlement and dismissed his Crossclaim against Fujii. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Crossclaim.

The Panel conducted a recorded, telephonic hearing on January 26, 2022 so the parties could present oral argument and evidence on Fujii and Valente's requests for expungement.

Claimant did not participate in the expungement.

The Panel reviewed Fujii and Valente's BrokerCheck® Reports.

In recommending expungement, the Panel relied upon the following documentary or other evidence: pleadings; withdrawal of claim and Crossclaim; BrokerCheck® Reports; exhibits; and Fujii and Valente's testimony.

In his Statement of Answer, Guidone requested expungement of this matter from his CRD records. However, Guidone did not pursue his request further, and therefore, the Panel made no determination regarding expungement.

The Award in this matter may be executed in counterpart copies.

### **AWARD**

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

1. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2136780) from registration records maintained by the CRD for Respondent Yuji Fujii (CRD Number 4930999) with the understanding that, pursuant to Notice to Members 04-16, Respondent Yuji Fujii must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Panel also recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2110174) from registration records maintained by the CRD

for Respondent Anthony Vincent Valente (CRD Number 1526792) with the understanding that, pursuant to Notice to Members 04-16, Respondent Anthony Vincent Valente must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (“Code”), the Panel has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Panel has made the above Rule 2080 finding based on the following reasons:

The evidence, based upon the undisputed documentary evidence and the testimony of both Valente and Fujii, clearly indicates that: (1) Morgan Stanley, especially through more than ten years of work and efforts by Valente and Fujii, was diligent, consistent and appropriate; (2) Claimant’s modest account was prudently invested, but was drastically reduced by Claimant’s withdrawals to pay expenses and to resolve credit card debt; (3) Claimant’s credit account with Morgan Stanley was opened and handled with full knowledge of Claimant, and was part of the ongoing efforts of Valente and Fujii to help Claimant resolve and manage her substantial credit card debt; (4) Morgan Stanley, Valente and Fujii, especially Fujii, provided services above and beyond necessary by actively assisting Claimant in settling credit card debt; and (5) Morgan Stanley, Valente and Fujii were more than diligent in communicating with Claimant.

2. The Panel made no determination with respect to Guidone’s expungement request.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

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

Initial Claim Filing Fee	= \$	600.00
Crossclaim Filing Fee for Guidone	= \$	1,600.00
Expungement Filing Fee for Fujii	= \$	1,600.00
Expungement Filing Fee for Valente	= \$	1,600.00

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

Pursuant to Rule 12902(d) of the Code, FINRA shall retain the total amount of the filing fee deposited by Claimant and Respondent Guidone since this office was notified by the parties that they settled or withdrew this matter within 10 calendar days of the first scheduled hearing session.

**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	= \$	3,850.00

**Late Pre-Hearing Cancellation Fees**

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

December 17, 2021, cancellation requested by Respondents	= \$	100.00
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Total Late Pre-Hearing Cancellation Fees	= \$	100.00

The Panel has assessed the total late pre-hearing cancellation fees jointly and severally to Respondents.

**Last-Minute Cancellation Fees**

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

January 26-27, 2022, settled by Parties	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00

The Panel has assessed the total last-minute cancellation fees to Guidone.

**Hearing Session Fees and Assessments**

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

One (1) pre-hearing session with the Panel @ \$1,150.00/session	= \$	1,150.00
Pre-Hearing Conference: September 10, 2021	1 session	
One (1) hearing session on expungement request @ \$1,150.00/session	= \$	1,150.00
Hearing: January 26, 2022	1 session	
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Total Hearing Session Fees	= \$	2,300.00

The Panel has assessed \$1,150.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$1,150.00 of the total hearing session fees to Morgan Stanley.

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

**ARBITRATION PANEL**

Paul E. Dahlman	-	Public Arbitrator, Presiding Chairperson
Michael D. Briggs	-	Public Arbitrator
Albert T. T. Cook, Jr.	-	Non-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.

**Concurring Arbitrators' Signatures**

***Paul E. Dahlman***

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Paul E. Dahlman  
Public Arbitrator, Presiding Chairperson

**02/08/2022**

\_\_\_\_\_  
Signature Date

***Michael D. Briggs***

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Michael D. Briggs  
Public Arbitrator

**02/08/2022**

\_\_\_\_\_  
Signature Date

***Albert T. T. Cook, Jr.***

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Albert T. T. Cook, Jr.  
Non-Public Arbitrator

**02/09/2022**

\_\_\_\_\_  
Signature Date

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February 10, 2022

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