Morgan Stanley Pays $3M For Discovery Lapse In FINRA Case

By Rachel Graf

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Law360 (July 17, 2019, 5:58 PM EDT) -- A Financial Industry Regulatory Authority arbitration panel on Tuesday ordered Morgan Stanley Smith Barney LLC to pay investors a $3 million sanction for its failure to provide information about a broker who was fired.

The panel also ordered the bank to pay the investors, Isabel Litovich-Quintana and Jose Torres, about $260,000 in compensatory damages related to their investments in Puerto Rico bonds. The decision comes shortly after two other arbitration panels ordered UBS Financial Services Inc. to pay a total of roughly $13 million related to similar investments.

“We strongly disagree with the panel’s award of monetary sanctions in this case, which we believe are unwarranted and excessive," a Morgan Stanley spokesperson said by email.

Two years ago, the investors accused Morgan Stanley of breach of fiduciary duty, negligence, negligent supervision, fraud, breach of contract, and violations of various securities laws in relation to the bond investments.

As the proceedings progressed, Morgan Stanley allegedly refused to hand over documents involving a broker who had been terminated, according to the FINRA panel. An evidentiary hearing was delayed to allow the parties to discuss whether the documents were privileged, after which the FINRA panel again ordered Morgan Stanley to turn them over, according to the filing.

“The panel took note of the extreme prejudice respondent’s failure of compliance caused claimants’ counsel in preparing their case and asserting their claims without the withheld documents which the panel deemed were highly relevant to the dispute in question, the central figure of which was the terminated employee whose related documents were being withheld,” according to the filing.

The investors asked that Morgan Stanley be sanctioned for its failure to produce the documents, according to the panel.

Though not the subject of sanctions, UBS has similarly been ordered to pay compensatory damages related to Puerto Rico bonds in recent months. Last week, a FINRA panel ordered the bank to pay about $4.8 million in damages and $68,000 in costs, in addition to $7.4 million in damages and asset purchases, plus interest, and $400,000 in fees and costs that a FINRA panel ordered in May.

Counsel for the investors didn't respond Wednesday to requests for comment.

The investors are represented by Jeffrey Erez of Erez Law PLLC, and Eliezer Aldarondo-Lopez of Aldarondo & Lopez-Bras PSC.

Morgan Stanley is represented by Joseph Coates III and Jason Fedo of Greenberg Traurig PA, and Luis Saldaña-Roman of Saldaña Carvajal & Vélez-Rivé PSC.

The case is Litovich-Quintana et al. v. Morgan Stanley Smith Barney LLC, arbitration number 17-01908 before the FINRA Office of Dispute Resolution.

--Editing by Peter Rozovsky.

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