

**Morgan Stanley Smith Barney LLC v Aitchison**

2025 NY Slip Op 33394(U)

September 10, 2025

Supreme Court, New York County

Docket Number: Index No. 653775/2025

Judge: Andrew Borrok

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 53

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MORGAN STANLEY SMITH BARNEY LLC, NICHOLAS  
ANTHONY ROGERS, JIM GARY STEPHENSON,

Plaintiff,

- v -

CHRISTINA S. AITCHISON, THOMAS M. AITCHISON,  
CHRISTINA S. AITCHISON IRA ACCOUNT, THOMAS M.  
AITCHISON IRA ACCOUNT, THE TM & CS AITCHISON  
1998 REVOCABLE TRUST

Defendant.

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INDEX NO. 653775/2025

MOTION DATE 06/23/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

HON. ANDREW BORROK:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2  
were read on this motion to/for CONFIRM/DISAPPROVE AWARD/REPORT.

Upon the foregoing documents, Morgan Stanley Smith Barney LLC (**Morgan Stanley**),  
Nicholas Anthony Rogers and Jim Gary Stephenson (the **Petitioners**)’ petition to (i) confirm the  
Financial Industry Regulatory Authority (**FINRA**) Arbitration Award (the **Award**; NYSCEF  
Doc. No. 9), dated July 3, 2024 and (ii) direct expungement of all references to the arbitration  
from the FINRA Central Registration Depository records maintained on behalf of Nicholas  
Anthony Rogers and Jim Gary Stephenson is GRANTED without opposition pursuant to CPLR  
§ 7510 and the Federal Arbitration Act (the **FAA**), 9 U.S.C. § 9 (*see Matter of Bornstein v  
Steinberg*, 175 AD3d 605, 606 [2d Dept 2019]; *Matter of Granet & Assoc, Inc. v Thom Filicia,  
Inc.*, 159 AD3d 573, 573 [1st Dept 2018]).

CPLR § 7510 provides:

[t]he court shall confirm an award upon application of a party made within one year after its delivery to them, unless the award is vacated or modified upon a ground specified in section seventy-five hundred eleven of this article.

The FAA, 9 USCA § 9 provides:

If the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title. If no court is specified in the agreement of the parties, then such application may be made to the United States court in and for the district within which such award was made. Notice of the application shall be served upon the adverse party, and thereupon the court shall have jurisdiction of such party as though he had appeared generally in the proceeding. If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident, then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court.

(9 USCA § 9).

On February 7, 2020, the respondents commenced an arbitration matter by filing a Statement of Claim (NYSCEF Doc. No. 3) with FINRA styled *Christina S. Aitchison, Thomas M. Aitchison, Christina S. Aitchison IRA Account, Thomas M. Aitchison IRA Account, and the TM & CS Aitchison 1998 Revocable Trust vs, Morgan Stanley Smith Barney, LLC, Nicholas Anthony Rogers, and Jim Gary Stephenson, FINRA Case No. 20-00455* (the **Arbitration**). The respondents also executed a Uniform Submission Agreement (NYSCEF Doc. Nos. 4 and 5) whereby the respondents agreed to arbitrate all controversies in connection with the Statement of Claim, and to accept the award rendered in accordance with the FINRA Code of Arbitration Procedure.

The parties subsequently resolved the Arbitration pursuant to a settlement agreement and the respondents dismissed the Arbitration with prejudice.

On June 12, 2024, Morgan Stanley, on behalf of Mr. Rogers and Mr. Stephenson, filed an unopposed motion seeking the expungement of any reference to the Arbitration from Mr. Rogers' and Mr. Stephenson's Central Registry Depository records.

After considering the pleadings, the testimony and evidence presented at the expungement hearing, the Panel issued the Award on July 3, 2024:

1. The Panel awards the expungement of all references to Occurrence Number 2065296 from registration records maintained by the CRD for Respondent Nicholas Anthony Rogers (CRD Number 2509837) with the understanding that, pursuant to Rule 2080, Respondent Nicholas Anthony Rogers must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Panel awards the expungement of all references to Occurrence Number 2064893 from registration records maintained by the CRD for Respondent Jim Gary Stephenson (CRD Number 1471634) with the understanding that, pursuant to Rule 2080, Respondent Jim Gary Stephenson 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 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous.

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Panel has made the above findings based on the following reasons:

Rogers and Stephenson were able to demonstrate through the submittal of emails, phone call records and transcripts and other exhibits, and through their testimony

that multiple allegations presented in the Statement of Claim were clearly erroneous. The security at issue in the case was not held, managed or controlled by Rogers and Stephenson. Rogers and Stephenson played no part in the specific decisions and instructions to sell the security and thus were not involved in any of the sales transactions.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

(NYSCEF Doc. No. 9 at 3-4).

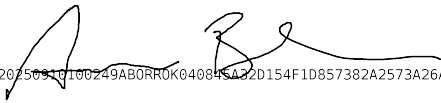
The Petitioners now move to confirm the Award in this Court pursuant to CPLR §§ 7510.

Inasmuch as none of the grounds set forth in the CPLR § 7511 appear to be present, the petition is granted as unopposed.

Accordingly, it is hereby

ADJUGED that the petition is GRANTED, and the award, dated July 3, 2024, in the matter of *Christina S. Aitchison, Thomas M. Aitchison, Christina S. Aitchison IRA Account, Thomas M. Aitchison IRA Account, and the TM & CS Aitchison 1998 Revocable Trust vs, Morgan Stanley Smith Barney, LLC, Nicholas Anthony Rogers, and Jim Gary Stephenson, FINRA Case No. 20-00455* is confirmed in all respects; and it is further

ORDERED that all references to the Arbitration shall be expunged from the registration records pertaining to Mr. Rogers (CRD No. 2509837) and Mr. Stephenson (CRD No. 1471634), maintained by FINRA's Central Registration Depository.

  
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9/10/2025

DATE

ANDREW BORROK, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED  DENIED

APPLICATION:

SETTLE ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART  OTHER

SUBMIT ORDER

FIDUCIARY APPOINTMENT  REFERENCE