

FINRA Awards \$4.2M For Morgan Stanley's Lack Of Oversight

By **Darcy Reddan**

Law360 (January 2, 2019, 4:28 PM EST) -- A Financial Industry Regulatory Authority arbitration panel has ordered Morgan Stanley Smith Barney LLC to pay a former NFL player and a Mega Millions lottery winner a combined \$4.2 million, ruling the wealth manager failed to adequately supervise the adviser who squandered the funds.

The panel awarded \$3.3 million to James Groves, a Mega Millions lottery winner, and \$879,000 to retired NFL player Asante Samuel. The ruling relates to the conduct of Aaron R. Parthemer, a former adviser at Morgan Stanley Smith Barney and a Miami Beach nightclub owner, who steered Samuel and Groves to invest in Club Play, a Miami beach hip-hop nightclub, where investors lost nearly all of their investments.

"We believe the award reflects and underscores the utter failure to supervise by Morgan Stanley and it demonstrates the improper activities it condoned and failed to properly address," Matthew E. Johnson of Dowd Bennett LLP said in a statement.

In the FINRA panel's order, which was issued last Wednesday, Morgan Stanley was found liable for negligence, negligent supervision and violation of FINRA Rules 3110 and 3120, which govern supervision and supervisory control systems, respectively.

According to the order, the arbitration hearing was held over the course of six days in October and November and saw Samuel request \$3.9 million in damages and Groves request approximately \$5 million.

Wednesday's order did not provide additional reasoning regarding the panel's final ruling on the amount of damages or provide details regarding Morgan Stanley's negligence.

"This is another unfortunate situation of a professional athlete and lottery winner being taken advantage of by an unethical financial adviser," Chase Carlson of Carlson & Associates PA said in a statement. "We are thankful that we were able to represent and fight for them."

Samuel retired in 2013 after an 11-year career with the Atlanta Falcons, the New England Patriots and the Philadelphia Eagles.

The dispute is the second brought against Morgan Stanley for Parthemer's conduct, which has resulted in a 2016 arbitration award of \$608,300 to Keyon Dooling, a former NBA player with the Miami Heat and other teams, and \$206,000 to John St. Clair, a former NFL player for the Miami Dolphins.

In March 2017, Parthemer agreed to an indefinite bar from acting as an investment adviser or participating in penny stock offerings, without admitting or denying the U.S. Securities and Exchange Commission's claims that he participated in selling more than \$5 million in unregistered, illiquid securities for an internet branding company to clients, most of whom were active or retired pro football players, while misrepresenting or omitting information about the investments.

He previously agreed in April 2015 to be barred permanently from associating with FINRA members as a sanction for a host of alleged violations, including running the Miami Beach nightclub, marketing tequila and participating in the stock offerings at issue in a separate case brought by the SEC.

According to the March 2017 settlement order, Parthemer began participating in the securities sales in 2009, when he was an adviser at Morgan Stanley, after he was approached by the CEO of Global Village Concerns Inc. to help raise capital and find investors.

At that time, Parthemer was a registered adviser for the National Football League Players Association and had roughly 40 active or retired pro athletes as customers, most of whom were NFLPA members, the order said.

Parthemer began recommending investments in Global Village Concerns to his brokerage customers and advisory clients, but the SEC alleged that he misrepresented and omitted important information about the company in his presentations.

Representatives for Samuel and Groves declined to comment Wednesday.

A representative for Morgan Stanley did not immediately respond to request for comment Wednesday.

Samuel and Groves are represented by Matthew E. Johnson of Dowd Bennett LLP, and Curtis Carlson and Chase Carlson of Carlson & Associates PA.

Morgan Stanley is represented by Joseph C. Coates III of Greenberg Traurig PA.

The case is Gregory Alan Groves Sr. et al. v. Morgan Stanley Smith Barney LLC et al., case number 16-02052, before the FINRA Office of Dispute Resolution.

--Editing by Stephen Berg.