# Bond Case Briefs

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## Ex-Morgan Stanley Rep Suspended Over Unsuitable Muni Bond Sales.

**The broker incurred unnecessary fees by buying the funds in brokerage accounts and transferring them, FINRA said.**

The Financial Industry Regulatory Authority suspended a former Morgan Stanley broker for three months over a series of unsuitable investment transactions, including 28 municipal bonds, that were made by him in eight of his customers' accounts in violation of FINRA rules, according to the regulator.

John A. Borsellino signed a letter of acceptance, waiver and consent on Oct. 25 in which, without admitting or denying FINRA's findings, he agreed to the suspension, to pay a $5,000 fine and to disgorge commissions he made from the 43 unsuitable purchases in the amount of $23,931, plus interest. FINRA accepted the letter Wednesday.

Morgan Stanley declined to comment Thursday. Borsellino's attorney, Marc Dobin of Dobin Law Group in Jupiter, Florida, didn't immediately respond to a request for comment.

The broker recommended that the eight clients buy 28 muni bonds and 15 non-municipal securities in their brokerage accounts, which "caused the customers to incur upfront sales charges," according to the FINRA letter. In each instance, Borsellino transferred the security to the customer's existing fee-based account shortly after buying it despite the fact that, in each case, he could have bought the security in the fee-based account without any upfront sales charges, the letter said.

The upfront sales charges associated with the 43 unsuitable purchases made in the customers' brokerage accounts totaled about $58,000, all of which Morgan Stanley went on to reimburse to Borsellino's clients, FINRA said.

The transactions were made by Borsellino despite the fact that he "lacked a reasonable basis to believe that the recommended securities purchases made in the customers' brokerage accounts were suitable because he failed to exercise reasonable diligence and failed to consider the costs associated with the transactions," according to FINRA.

Borsellino first registered with a FINRA member firm in 1990, when he became associated with Merrill Lynch, according to FINRA's BrokerCheck website. He registered as a general securities representative through Morgan Stanley Dean Witter in 2006, Morgan Stanley & Co. in 2007 and Morgan Stanley in 2009.

The broker remained with Morgan Stanley until Dec. 19, 2017, when he was discharged from the company due to "concerns about asset movements between, and the timing of trades in, accounts for the same clients with different fee characteristics and whether the representative spoke with the clients before taking these actions," according to a disclosure on his BrokerCheck profile.

Between January 2014 and December 2016, Borsellino "recommended and then made unsuitable securities transactions in eight customers' accounts," violating FINRA Rules 2111 and 2010 and Municipal Securities Rulemaking Board Rules G-19 and G-17, according to the FINRA letter.

The incidents didn't represent the first investments he made on behalf of his clients that were later alleged to be unsuitable. There are eight disclosures on Borsellino's BrokerCheck profile, including the 2017 employment separation agreement with Morgan Stanley.

In 2001, a client claimed he made an unauthorized purchase and sued him for $14,550. He denied the claim and there was no settlement, according to BrokerCheck. Then a client claimed he didn't provide any notice of a deferred sales charge on Class B mutual fund shares. That client requested $5,000 in damages, but the settlement in 2002 wound up being for an even larger amount: $11,000. That same year, there was a $20,109 settlement in a case where a client claimed a mutual fund was bought without authorization.

Then came three customer disputes settled between 2003 and 2006 in which there were claims of unsuitable investments being made by Borsellino. The first was closed with no action. However, he settled for $85,000 and $135,000 in the next two disputes, both in 2006.

The first disclosure on his profile actually involved an incident long before his securities career started. He was arrested and charged with shoplifting about $20 worth of merchandise in Poughkeepsie, New York, but the charge was dismissed, according to BrokerCheck.

**Think Advisor**

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