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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Joshua D. Wilson

Case Number: 03-01398

Names of the Respondents  
Morgan Keegan & Company, Inc.  
Christopher A. Booze

Hearing Site: Orlando, FL

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For Joshua D. Wilson, hereinafter referred to as "Claimant": Kenneth P. Hazouri, Esq., de Beaubien, Knight, Simmons, Mantzaris & Neal, LLP, Orlando, FL.

For Respondent Morgan Keegan & Company, Inc. ("Morgan Keegan"): Shea O'Brien Hicks, Staff Attorney, Morgan Keegan, Memphis, TN.

Respondent Christopher A. Booze ("Booze") did not appear in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: February 19, 2003.

Claimant's Emergency Motion to Amend Statement of Claim filed on or about: January 16, 2004.

Amended Statement of Claim filed on or about: January 26, 2004.

Claimant signed the Uniform Submission Agreement: February 5, 2003.

Statement of Answer filed by Respondent Morgan Keegan on or about: May 12, 2003.

Respondent Morgan Keegan signed the Uniform Submission Agreement: May 12, 2003.

Respondent Booze did not file a Statement of Answer or an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: lack of suitability; lack of supervision; dishonest and unethical practice; breach of fiduciary duty; and, negligence. The causes of action relate to the purchase of unspecified securities products in Claimant's account.

Unless specifically admitted in its Answer, Respondent Morgan Keegan denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$19,781.37 plus pre-judgment interest, punitive damages of \$100,000.00, costs, attorneys' fees, and post-judgment interest on all sums awarded.

Respondent Morgan Keegan requested dismissal of the Statement of Claim, fees, attorneys' fees, expenses, costs, and such other and further relief as the undersigned arbitrators (the "Panel") deemed just.

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

On or about January 22, 2004, the Panel issued an order which deferred ruling on Claimant's Emergency Motion to Amend until the evidentiary hearing in this matter.

During the evidentiary hearing, the Panel granted Claimant's Emergency Motion to Amend.

Respondent Booze did not appear in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the Panel determined that Respondent Booze has not been properly served with the Statement of Claim and did not receive due notice of the hearing. Accordingly, the Panel determined that it did not have jurisdiction over Respondent Booze.

The parties present at the evidentiary hearing agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

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

Respondent Morgan Keegan is liable for breach of fiduciary duty and negligence and shall pay to Claimant compensatory damages in the sum of \$10,245.82 plus pre-judgment interest in the sum of \$1,604.92 which accrued from November 1, 2001 to January 27, 2004.

Claimant's claims against Respondent Booze are dismissed, without prejudice.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and the parties' requests for attorneys' fees, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:  
Initial claim filing fee = \$ 300.00

**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, Respondent Morgan Keegan is a member firm and a party.

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Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

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**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum 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), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: December 18, 2003 1 session	
One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: October 1, 2003 1 session	
Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: January 26, 2004 2 sessions	
January 27, 2004 2 sessions	

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Total Forum Fees = \$6,075.00

The Panel has assessed \$3,037.50 of the forum fees to Claimant.

The Panel has assessed \$3,037.50 of the forum fees to Respondent Morgan Keegan.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 3,037.50</u>
Total Fees	= \$ 3,337.50
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,912.50

Respondent Morgan Keegan is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	<u>= \$ 3,037.50</u>
Total Fees	= \$ 8,237.50
<u>Less payments</u>	<u>= \$ 5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,037.50

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Michelle J. Grocock, J.D.	-	Public Arbitrator, Presiding Chairperson
Richard W. Thornburg, J.D.	-	Public Arbitrator
Robert K. MacKenzie	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Michelle J. Grocock, J.D.  
Public Arbitrator, Presiding Chairperson

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

/s/  
Richard W. Thornburg, J.D.  
Public Arbitrator

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

/s/  
Robert K. MacKenzie  
Non-Public Arbitrator

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

February 18, 2004

Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures



Michelle J. Crocock, J.D.  
Public Arbitrator, Presiding Chairperson

2/18/04  
Signature Date

Richard W. Thornburg, J.D.  
Public Arbitrator

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

Robert K. MacKenzie  
Non-Public Arbitrator

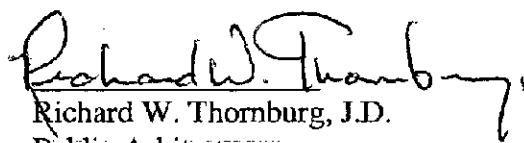
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Michelle J. Grocock, J.D.  
Public Arbitrator, Presiding Chairperson

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

  
Richard W. Thornburg, J.D.  
Public Arbitrator

03.11.04  
Signature Date

\_\_\_\_\_  
Robert K. MacKenzie  
Non-Public Arbitrator

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Signature Date

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NASD Dispute Resolution

Arbitration No. 03-01396

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Concurring Arbitrators' Signatures

Michelle J. Grocock, J.D.  
Public Arbitrator, Presiding Chairperson

Signature Date

Richard W. Thornburg, J.D.  
Public Arbitrator

Signature Date

  
Robert K. MacKenzie  
Non-Public Arbitrator

2/17/04  
Signature Date

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