

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Morgan Keegan & Company, Inc.

and

Case Number: 04-00778
Hearing Site: Houston, Texas

Names of Respondents

Darren A. Driggers and
Joseph B. Downey

NATURE OF DISPUTE

Member Firm v. Associated Persons

REPRESENTATION OF PARTIES

Morgan Keegan & Company, Inc. ("**Claimant**") was represented by Shea O'Brien Hicks, Esq., Morgan Keegan & Company, Inc., Memphis, Tennessee.

Darren A. Driggers ("**Driggers**") and Joseph B. Downey ("**Downey**") were represented by John H. Risley, Esq., Houston, Texas until October 25, 2004. At the final hearing, Downey appeared pro se and Driggers did not make an appearance.

CASE INFORMATION

The Statement of Claim was filed on or about February 6, 2004. The Submission Agreement of Claimant, Morgan Keegan & Company, Inc., was signed on or about February 6, 2004.

The Joint Statement of Answer was filed by Respondents, Darren A. Driggers and Joseph B. Downey, on or about May 27, 2004.

Respondents filed a Motion to Sever on or about October 25, 2004. Claimant filed a Response to the Motion on or about October 25, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: failure to repay promissory notes,

compensation and indemnification. The causes of action relate to the recovery by Claimant of certain amounts it loaned to Respondents during the course of their employment and certain amounts it paid to settle a third-party customer claim asserted against Respondents and Morgan Keegan.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: waiver, estoppel, and accord and satisfaction in connection with the Claimant's claims.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$161,401.11
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about October 26, 2004, the Panel denied Respondents Motion to Sever.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent, Darren A. Driggers, had received due notice of the hearing as required under Rule 10315 of the NASD Code of Arbitration Procedure ("the Code") and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent, Joseph B. Downey, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

Respondent, Darren A. Driggers, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Darren A. Driggers, is liable for and shall pay to Claimant, Morgan Keegan & Company, Inc., the sum of \$137,389.00 in compensatory damages;
- 2.) Respondent, Joseph B. Downey, is liable for and shall pay to Claimant, Morgan Keegan & Company, Inc., the sum of \$79,011.00 in compensatory damages;
- 3.) Respondent, Darren A. Driggers, is liable for and shall pay to Claimant, Morgan Keegan & Company, Inc., the sum of \$5,000.00 in attorneys' fees;
- 4.) Respondent, Joseph B. Downey, is liable for and shall pay to Claimant, Morgan Keegan & Company, Inc., the sum of \$5,000.00 in attorneys' fees;
- 5.) Respondent, Darren A. Driggers, is liable for and shall pay to Claimant, Morgan Keegan & Company, Inc., interest at the rate of 10% pursuant to the Note on \$82,389.00 through and including the date of default until paid in full;
- 6.) Respondent, Joseph B. Downey, is liable for and shall pay to Claimant, Morgan Keegan & Company, Inc., interest at the rate of 10% pursuant to the Note through and including the date of default until paid in full;
- 7.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 8.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

FEES

Pursuant to 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 = \$ 1,000.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is Morgan Keegan & Company, Inc.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

Adjournment Fees

Adjournments requested during these proceedings:

October 29, 2004, adjournment by Driggers and Downey = \$ 1,125.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,125.00 = \$ 2,250.00

Pre-hearing conferences: May 27, 2004 1 session
November 15, 2004 1 session

One (1) Hearing session x \$1,125.00 = \$ 1,125.00

Hearing Date: January 10, 2005 1 session

Total Forum Fees = \$ 3,375.00

The Arbitration Panel has assessed \$1687.50 of the forum fees to Darren A. Driggers.

The Arbitration Panel has assessed \$1687.50 of the forum fees to Joseph B. Downey.

Fee Summary

Claimant, Morgan Keegan & Company, Inc., is liable for:

Initial Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Fees	= \$ 6,200.00
<u>Less payments</u>	<u>= \$ 7,325.00</u>
Refund Due to Morgan Keegan & Company, Inc.	= \$ 1,125.00

Respondent, Darren A. Driggers, is liable for:

Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 1,687.50</u>
Total Fees	= \$ 2,250.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,250.00

Respondent, Joseph B. Downey, is liable for:

Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	<u>= \$ 1,687.50</u>
Total Fees	= \$ 2,250.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Dolores Martin - Non-Public Arbitrator, Presiding Chair
Thomas H. Griffin - Non-Public Arbitrator
Walter F. Schleyer - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Dolores Martin
Dolores Martin
Non-Public Arbitrator, Presiding Chair

January 13, 2005
Signature Date

/s/ Thomas H. Griffin
Thomas H. Griffin
Non-Public Arbitrator

January 13, 2005
Signature Date

/s/ Walter F. Schleyer
Walter F. Schleyer
Non-Public Arbitrator

January 13, 2005
Signature Date

January 13, 2005
Date of Service (For NASD office use only)

ARBITRATION PANEL

Dolores Martin - Non-Public Arbitrator, Presiding Chair
Thomas H. Griffin - Non-Public Arbitrator
Walter F. Schleyer - Non-Public Arbitrator

Concurring Arbitrators:

Dolores Martin
Dolores Martin
Non-Public Arbitrator, Presiding Chair

1-13-05
Signature Date

Thomas H. Griffin
Thomas H. Griffin
Non-Public Arbitrator

Signature Date

Walter F. Schleyer
Walter F. Schleyer
Non-Public Arbitrator

Signature Date

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Thomas H. Griffin - Non-Public Arbitrator
Walter F. Schleyer - Non-Public Arbitrator

Concurring Arbitrators:

Dolores Martin
Non-Public Arbitrator, Presiding Chair

Thomas H. Griffin
Non-Public Arbitrator

Walter F. Schleyer
Non-Public Arbitrator

Signature Date

Jan. 13, 2005

Signature Date

Signature Date

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Signature Date

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Non-Public Arbitrator

Signature Date



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