

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Billy Pendleton and Freda Pendleton

v.

04-06479

Louisville, Kentucky

Respondent

Morgan Keegan & Company, Inc.

NATURE OF DISPUTE

Customers v. Member Firm

REPRESENTATION OF PARTIES

Billy Pendleton and Freda Pendleton ("Claimants") were represented by Douglas T. Logsdon, Esq., and Robert E. Maclin, III, Esq., of McBrayer, McGinnis Leslie & Kirkland, PLLC, Lexington, Kentucky.

Morgan Keegan & Company, Inc. ("Morgan Keegan" or "Respondent") was represented by Janet P. Jakubowicz, Esq., and Christie A. Moore, Esq., of Greenbaum, Doll & McDonald, PLLC, Louisville, Kentucky.

CASE INFORMATION

The Statement of Claim was filed on or about September 9, 2004. The Submission Agreement of Claimants was signed on or about September 9, 2004.

The Statement of Answer was filed Morgan Keegan on or about November 22, 2004. The Submission Agreement of Morgan Keegan was signed on or about November 19, 2004.

Morgan Keegan filed a Motion to Dismiss on or about December 1, 2004. Claimants filed a Response in Opposition to Morgan Keegan's Motion to Dismiss on or about December 16, 2004. Morgan Keegan filed a Reply in Support to its Motion to Dismiss on or about January 10, 2005. Claimants filed a Supplemental Response in Opposition to Morgan Keegan's Motion to Dismiss on or about January 21, 2005.

Morgan Keegan filed a Motion for Summary Judgment on or about December 30, 2005. Claimants filed a Response in Opposition to Morgan Keegan's Motion for Summary Judgment on or about

January 11, 2006. Morgan Keegan filed a Reply in Support of its Motion for Summary Judgment on or about January 21, 2005.

CASE SUMMARY

Claimants asserted causes of action including the following: breach of fiduciary duty, negligence, common law fraud, violation of Kentucky securities laws, violations of the Securities Exchange Act of 1934, violation of NASD Conduct Rules and failure to supervise. The causes of action related to the actions of their former broker, John Cotton, who at the time, was employed by Respondent. Claimants alleged that Cotton wrongfully engaged in excessive, unnecessary, inappropriate and risky securities trading and churned their account. Claimants alleged that Cotton induced them to invest in various unspecified high-risk securities that were not consistent with their investment objectives while depleting their more conservative investments to fund these trades. Claimants further alleged that Respondent is responsible for Claimants' losses because it failed to adequately screen, hire, train, supervise, monitor and/or audit the activities of Cotton.

Respondent denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimants' claims are barred by the doctrines of waiver, estoppel, contributory/comparative negligence, laches and assumption of risk; Claimants' claims are barred by the doctrine of unclean hands and/or the doctrine of illegality; Claimants' claims are barred by virtue of their breach of contractual obligations to Morgan Keegan and their failure to use due diligence in monitoring their account; any loss or injury to Claimants was the result of superceding or intervening causes beyond Morgan Keegan's control, including, but not limited to, external market conditions; Claimants failed to state a factual basis supporting their claims for relief, and the Statement of Claim failed to state a claim upon which relief can be granted; Morgan Keegan maintained a reasonable system of supervision over Cotton and Claimants' failure to supervise claim therefore fails as a matter of law; and Morgan Keegan owed no duties to Claimant that extended beyond properly executing the transaction ordered or authorized by Claimants.

RELIEF REQUESTED

Claimants requested an award of \$3,309,740 in compensatory damages, plus punitive damages, attorneys' fees, costs, interest and any other relief the panel deemed just and proper.

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

OTHER ISSUES CONSIDERED & DECIDED

On or about May 11, 2005, the panel denied Respondent's Motion to Dismiss.

On or about February 1, 2006, the panel denied Respondent's Motion for Summary Judgment.

At the conclusion of Claimants' case-in-chief, Respondent asked for the panel to dismiss Claimants' claims. After deliberation, the panel denied Respondent's request for dismissal.

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 originals 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. Claimants' claims, each and all, are denied and dismissed with prejudice in their entirety;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice; and
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 600

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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Morgan Keegan & Company, Inc.

Member surcharge = \$ 2,800

Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 5,000

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 the Chairperson x \$ 450	= \$ 900
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Pre-hearing conferences:	October 3, 2005	1 session
	January 5, 2006	1 session

Three (3) Pre-hearing sessions with Panel x \$ 1,200	= \$ 3,600
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Pre-hearing conferences:	February 28, 2005	1 session
	May 11, 2005	1 session
	January 27, 2006	1 session

Eight (8) Hearing sessions with Panel x \$ 1,200	= \$ 9,600
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Hearing Dates:	February 6, 2006	2 sessions
	February 7, 2006	2 sessions
	February 8, 2006	2 sessions
	February 9, 2006	2 sessions

Total Forum Fees	= \$ 14,100
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The Arbitration Panel has assessed \$ 7,050 of the forum fees jointly and severally to Billy Pendleton and Freda Pendleton.

The Arbitration Panel has assessed \$ 7,050 of the forum fees to Morgan Keegan & Company, Inc.

FEE SUMMARY

Claimants, Billy Pendleton and Freda Pendleton, are jointly and severally liable for:

Initial Filing Fee	= \$ 600
Forum Fees	= \$ 7,050
Total Fees	= \$ 7,650

<u>Less payments</u>	= \$ 1,800
Balance Due NASD Dispute Resolution	= \$ 5,850

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

Member Fees	= \$ 8,550
<u>Forum Fees</u>	= \$ 7,050
Total Fees	= \$ 15,600
<u>Less payments</u>	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 7,050

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

ARBITRATION PANEL

Allan Weiss, JD - Public Arbitrator, Presiding Chair
John P. McShane - Public Arbitrator
Rudy Vincenti - Non-Public Arbitrator

Concurring Arbitrators:

Allan Weiss, JD
Public Arbitrator, Presiding Chair

Signature Date

John P. McShane
Public Arbitrator

Signature Date

Rudy Vincenti
Non-Public Arbitrator

Signature Date

2/16/06
Date of Service (NASD use only)

<u>Less payments</u>	= \$ 1,800
<u>Balance Due NASD Dispute Resolution</u>	= \$ 5,850

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

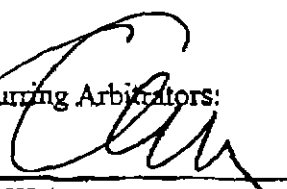
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Public Arbitrator, Presiding Chair



Signature Date

John P. McShane
Public Arbitrator

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Public Arbitrator, Presiding Chair

Signature Date

John P. McShane
Public Arbitrator

2-15-06
Signature Date

Rudy Vincenti
Non-Public Arbitrator

Signature Date

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