

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Morgan Keegan & Company, Inc.

Case Number: 04-06697

Name of the Respondent  
Ralph Elmer Huey, Jr.

Hearing Site: Raleigh, North Carolina

Name of the Third-Party Respondent  
Wachovia Securities, LLC

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

Claimant, Morgan Keegan & Company, Inc., hereinafter referred to as "Claimant", was represented by Shea O'Brien Hicks, Esq., Morgan Keegan & Company, Inc., Memphis, Tennessee.

Respondent, Ralph Elmer Huey, Jr. ("Huey"), hereinafter referred to as "Respondent", was represented by Norman B. Smith, Esq., Smith, James, Rowlett & Cohen, LLP, Greensboro, North Carolina.

Third-Party Respondent, Wachovia Securities, LLC ("Wachovia"), hereinafter referred to as "Third-Party Respondent", was represented by Wood W. Lay, Esq., Hunton & Williams, LLP, Charlotte, North Carolina.

**CASE INFORMATION**

Statement of Claim filed on September 22, 2004.

A representative of Claimant executed the Uniform Submission Agreement on September 21, 2004.

Answer, Counterclaim and Third-Party Claim filed by Respondent on January 3, 2005.  
Respondent signed the Uniform Submission Agreement on December 20, 2004.

Answer to Respondent's Third-Party claim filed by Third-Party Respondent on February 17, 2005.

A representative of Third-Party Respondent executed the Uniform Submission Agreement on February 15, 2005.

Claimant filed a Response to Respondent's Counterclaim on February 23, 2005.

Motion for Summary Judgment filed by Third-Party Respondent on September 30, 2005.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted a cause of action for breach of contract. The cause of action relates to a promissory note and related agreement.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defense: Claimant violated the implied covenant of good faith and fair dealing.

Respondent in his Counterclaim asserted a cause of action for breach of implied covenant of good faith and fair dealing.

Unless specifically admitted in the Reply to the Counterclaim, Claimant denied the allegations set forth in the Counterclaim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; failure to state a claim for conspiracy; and Respondent's Counterclaim is barred by the doctrines of ratification, estoppel, waiver, unclean hands and laches.

Respondent in his Third-Party claim asserted a cause of action for conspiracy and intentional interference with a contract.

Unless specifically admitted in the Answer to the Third-Party claim, Third-Party Respondent denied the allegations set forth in the Third-Party claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; failure to state a claim for conspiracy; and failure to mitigate damages.

### **RELIEF REQUESTED**

Claimants in the Statement of Claim requested:

Compensatory Damages	\$ 105,000.00
Attorneys' Fees	amount unspecified
Interest	amount unspecified
Cost	amount unspecified

Respondent in his Answer requested that Claimant recover nothing from Respondent.

Respondent in his Counterclaim requested:

Compensatory Damages	\$ 79,455.68
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Claimant in the Answer to Counterclaim requested that the Counterclaim be dismissed with prejudice and that it be awarded attorneys' fees and costs.

Respondent in his Third-Party claim requested:

Compensatory Damages	\$ 79,455.68
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Third-Party Respondent in the Answer to Third-Party claim requested that the Respondent recover nothing and that it be awarded attorneys' fees and costs.

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

On October 20, 2005, Respondent dismissed all claims against Third-Party Respondent with prejudice.

On October 20, 2005, Respondent withdrew his Motion for Summary Judgment.

The parties 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, the Arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable to and shall pay to Claimant the sum of \$ 105,000.00 in compensatory damages. No interest is awarded on this amount;
2. Respondent's Counterclaim is denied in its entirety;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein is denied in its entirety.

### **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
Third-Party Claim filing fee	= \$	225.00
Counterclaim filing fee		waived

#### **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. Accordingly, Morgan Keegan and Wachovia are parties.

Morgan Keegan

Member surcharge	= \$	1,700.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	2,750.00

Wachovia

Member surcharge	= \$	1,700.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	2,750.00

**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 Panel @ \$ 1,125.00	= \$	1,125.00
Pre-hearing conference: March 15, 2005 1 session		
Two (2) Hearing sessions @ \$ 1,125.00	= \$	2,250.00
Hearing Date: November 30, 2005 2 sessions		
Total Forum Fees	= \$	3,375.00

1. The Panel has assessed \$ 1,687.50 of the forum fees to Claimant.
2. The Panel has assessed \$ 1,687.50 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$	1,000.00
Member Fees	= \$	5,200.00
<u>Forum Fees</u>	= \$	<u>1,687.50</u>
Total Fees	= \$	7,887.50
<u>Less payments</u>	= \$	<u>7,325.00</u>
Balance Due NASD Dispute Resolution	= \$	562.50

2. Respondent is assessed and shall pay:

Filing Fees	= \$	225.00
<u>Forum Fees</u>	= \$	<u>1,687.50</u>
Total Fees	= \$	1,912.50
<u>Less payments</u>	= \$	<u>975.00</u>
Balance Due NASD Dispute Resolution	= \$	937.50

3. Third-Party Respondent is assessed and shall pay:

<u>Member Fees</u>	= \$	<u>5,200.00</u>
Total Fees	= \$	5,200.00

Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

Donald L. Tarkenton	- Non-Public Arbitrator, Presiding Chairperson
David P. McDuffee	- Non-Public Arbitrator, Panelist
Thomas C. Borthwick	- Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**



Donald L. Tarkenton

Non-Public Arbitrator, Presiding Chairperson

12-1-05

Signature Date

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David P. McDuffee

Non-Public Arbitrator, Panelist

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

\_\_\_\_\_  
Thomas C. Borthwick

Non-Public Arbitrator, Panelist

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Signature Date

December 2, 2005

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

Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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Non-Public Arbitrator, Presiding Chairperson

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Signature Date

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David P. McDuffee  
Non-Public Arbitrator, Panelist

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1 Dec 2005  
Signature Date

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Thomas C. Borthwick  
Non-Public Arbitrator, Panelist

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

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December 2, 2005  
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Less payments = \$ 5,200.00  
Balance Due NASD Dispute Resolution = \$ 0.00

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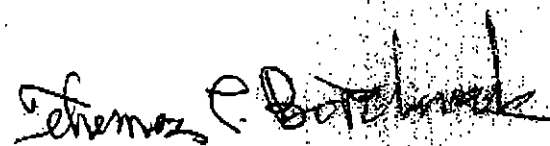
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Signature Date

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