

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants  
John H. Chandler, Jr. and  
Kathleen W. Chandler

Case Number: 05-00701

Name of the Respondent  
Morgan Keegan & Co., Inc.

Hearing Site: Memphis, Tennessee

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For John H. Chandler, Jr. and Kathleen W. Chandler, hereinafter collectively referred to as "Claimants": H. Naill Falls, Esq., Falls & Veach, Nashville, Tennessee.

For Morgan Keegan & Co., Inc., hereinafter referred to as "Respondent": Shea O'Brien Hicks, Vice President, Associate Attorney, Morgan Keegan & Co., Inc., Memphis, Tennessee.

**CASE INFORMATION**

Statement of Claim filed on or about: February 8, 2005.

Claimants signed the Uniform Submission Agreement: February 4, 2005.

Statement of Answer filed on or about: April 19, 2005.

Respondent signed the Uniform Submission Agreement: April 15, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) breach of contract; 3) negligence; 4) suitability; 5) respondeat superior; 6) fraud; 7) violation of SEC, NASD and NYSE rules; and, 8) violation of the Tennessee Security Act. The causes of action relate to Claimants' investments in, including but not limited to, Class B and Class C mutual funds and the use of margin.

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

**RELIEF REQUESTED**

Claimants requested: 1) unspecified compensatory damages; 2) interest; 3) attorneys' fees; and, 4) other relief as deemed just.

Respondent requested: 1) that all claims against it be dismissed with prejudice; 2)

attorneys' fees; 3) costs and expenses; and, 4) such other relief as deemed just.

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

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.

### **AWARD**

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

All claims are denied.

Any and all claims for relief not specifically addressed herein 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	= \$250.00
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#### **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, Respondent is a party and a member firm.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,200.00</u>
Total Member fees	= \$4,450.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

### **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.

There were no injunctive relief fees assessed during these proceedings.

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A 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:

One (1) Pre-hearing session with the Panel @ \$1,000.00/session = \$1,000.00  
Pre-hearing conference: July 11, 2005 1 session

One (1) Decision on discovery-related motions on the papers  
with (1) one arbitrator @ \$200.00 = \$ 200.00  
Claimant submitted one (1) discovery-related motion  
January 11, 2006

Four (4) Hearing sessions @ \$1,000.00/session = \$4,000.00  
Hearing Dates: November 27, 2006 2 sessions  
November 28, 2006 2 sessions

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Total Forum Fees = \$5,200.00

The Panel has assessed the total forum fees of \$5,200.00 to Claimants, jointly and severally.

### **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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

### **Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$5,200.00
Total Fees	= \$5,450.00

<u>Less payments</u>	= \$1,250.00
Balance Due NASD Dispute Resolution	= \$4,200.00

Respondent is solely liable for:

Member Fees	= \$4,450.00
Total Fees	= \$4,450.00
<u>Less payments</u>	= \$4,450.00
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**

Hugh J. Moore, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Frank E. Barnett, Esq.	-	Public Arbitrator
Darrell A. Hillis	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Hugh J. Moore, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

December 1, 2006  
Signature Date

/s/  
Frank E. Barnett, Esq.  
Public Arbitrator

November 30, 2006  
Signature Date

/s/  
Darrell A. Hillis  
Non-Public Arbitrator

November 30, 2006  
Signature Date

December 1, 2006  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 05-00701  
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12/1/06  
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