

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

C. B. Scrignar

92-02095

Name of Respondents

Morgan Keegan & Company Inc
James G. Shay

REPRESENTATION

Claimant failed to appear at the hearing.

For Respondent: David M. Minnick, Esq., First Vice President and General Counsel, Morgan Keegan Co., Memphis, Tennessee.

CASE INFORMATION

Statement of Claim filed: June 22, 1992.

Claimant's Submission Agreement signed on: July 6, 1992.

Joint Statement of Answer filed by Respondents, James G. Shay and Morgan Keegan Co. on: July 31, 1992.

Respondent, James G. Shay's Submission Agreement signed on: July 21, 1992.

HEARING INFORMATION

Hearing Date: November 20, 1992. One (1) session.

Hearing Location: New Orleans, Louisiana.

CASE SUMMARY

Claimant C. B. Scrignar, M.D. (Claimant*) alleged unauthorized trading by Respondents James G. Shay and Morgan Keegan Co. ("Respondents"). The allegations arose out of trades in the following securities: U.S. Treasury securities; Coupon Treasury receipts; Treasury Investment Growth receipts; Treasury receipt principal; and Morgan Keegan Southern Capital Fund. Claimant had further alleged that he did not learn of the trades until

brought to light by his accountant in June of 1991.

In their joint Statement of Answer, Respondents denied each and every material allegation contained in the Statement of Claim. In addition, Respondents asserted the following defenses:

1. Claimant failed to act promptly and with due diligence to mitigate his damages.
2. Claimant caused or contributed to cause the alleged damages for which he complains and is thus barred from recovery due to his contributory negligence.
3. Claimant ratified the alleged conduct about which he complains by failing to object in a timely manner to the alleged unauthorized trades.
4. Claimant authorized each transaction with Respondents.

RELIEF REQUESTED

Claimant requested an award of \$8,483.00.

Respondents requested that Claimant's Statement of Claim be dismissed in all respects, and to assess all costs of this proceeding against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by the Respondents, the undersigned arbitrator has determined that Claimant had received due notice of the hearing as required under Section 26 of the Code of Arbitration Procedure (the "Code"), and that the arbitration of the matter would proceed pursuant to Section 29 of the Code.

Claimant C.B. Scrignar, M.D. failed to appear and testify at the hearing. However, Claimant had filed with the NASD a properly executed submission to arbitration and having answered the claim, and also having executed written account agreement to arbitrator any dispute arising out of the relationship of the parties, is required to submit to arbitration and therefore is bound by the determination of the arbitration panel on all issues submitted.

On November 20, 1992, Claimant failed to appear at the hearing. The Chairman waited for the Claimant to appear for more than 40 minutes after the scheduled time for the arbitration to begin. Upon Motion made by Respondents, the Chairman dismissed Claimant's claim with prejudice.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copy or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed

copy of the Award while the original remain on file with the NASD.

AWARD

Without making a finding on the merits of this case, without hearing testimony due to Claimants failure to appear at the scheduled hearing, and upon motion made by the Respondents the undersigned arbitrator rules in final resolution of this arbitration as follows:

1. Claimant C.B. Scrignar's claims against Respondents Morgan Keegan Co. and James G. Shay are hereby denied and dismissed with prejudice.
2. Each party shall bear its own costs of this arbitration, except as set forth more fully below.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following forum fees are assessed:

1 hearing session x \$200.00 = \$200.00

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$75.00, and shall retain the hearing session deposit in the amount of \$200.00 previously paid to the NASD by the Claimant.

Arbitrator's Signature

December 14, 1992

/s/Roy V. Ladner
Roy V. Ladner, Esq.

Date of Service by the NASD: 12-15-92