

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Theresa Lalonde

Case No. 99-03093

Names of Respondents

Morgan Keegan & Company, Inc.
Wilmer J. Freiberg
Ryan Reynolds LeBlanc

REPRESENTATION OF PARTIES

For Theresa Lalonde, hereinafter referred to as "Claimant": Thomas L. Krebs, Esq. of the law firm of Ritchie & Rediker, L.L.C., Birmingham, Alabama and Kirk Reasonover, Esq. of the law firm of Lamothe & Hamilton, New Orleans, Louisiana.

For Morgan Keegan & Company, Inc. ("Morgan Keegan"), Wilmer J. Freiberg ("Freiberg") and Ryan Reynolds LeBlanc ("LeBlanc"); hereinafter collectively referred to as "Respondents": Niel Prosser, Esq., Deputy General Counsel, Morgan Keegan & Company, Inc. and George C. Freeman, III, Esq. and Jennifer D. Rogers, Esq. of the law firm of Stone, Pigman, Walther, Wittman & Hutchinson, L.L.P., New Orleans, Louisiana.

CASE INFORMATION

Statement of Claim filed on or about: July 2, 1999.

First Amendment to Statement of Claim filed on or about: July 19, 1999.

Claimant signed the Uniform Submission Agreement: June 30, 1999.

Statement of Answer filed by Respondents on or about: September 30, 1999.

Counterclaim of Respondent Morgan Keegan filed on or about: July 5, 2000.

Respondent Morgan Keegan signed the Uniform Submission Agreement: September 28, 1999.

Respondent Freiberg signed the Uniform Submission Agreement: September 28, 1999.

Respondent LeBlanc signed the Uniform Submission Agreement: September 28, 1999.

CASE SUMMARY

Claimant asserted the following: Claimant's account at Morgan Keegan had a turnover rate of 86.9%. The cost to equity ratio was 30.1%. More specifically, Claimant's account had

to generate a 30.1% return before Claimant made any profit in her account. Respondent LeBlanc controlled Claimant's account as evidenced by the many trades when no contact was made with Claimant, or anyone connected to Claimant, or when she and/or her spouse were out of town. Claimant moved her account from Olde Discount Corporation based upon Respondent LeBlanc's representations about his ability to generate a return for her. Respondents assert that Claimant's spouse directed the trading in Claimant's account and that her investment objective was speculation. However, Claimant's spouse was not the owner of the account and no written power of attorney existed for Claimant's spouse to trade securities in her account at Morgan Keegan. Respondents' Procedures Manual and Compliance Manual forbid such an arrangement. Further, all Morgan Keegan documents (other than those created by the individual Respondents) clearly state that Claimant's only investment objective was growth. As a result of Respondents' churning of Claimant's account, she incurred actual net out-of-pocket damages of just over \$400,000.00

Respondents asserted the following: Claimant's claims of unauthorized, excessive, and unsuitable trading in her Morgan Keegan account and of inadequate supervision have no merit. All of Claimant's claims, moreover, are barred by traditional affirmative defenses, including waiver, ratification, and failure to mitigate.

Further, Respondents asserted the following: Claimant, through her husband, authorized all trading that occurred in her account; over 465 telephone calls occurred between the Respondents and Claimant during the relevant period; although Claimant apparently neglected to return her trading authorization form to the firm, the Respondents mistakenly thought it had been returned and otherwise believed her when she told them, before and after opening the account, that she had confidence in her husband's management of her account; Claimant complained about a missing trading authorization form only after she had sustained substantial losses as a result of her husband's extremely aggressive trading; Claimant and her husband represented that they had substantial independent wealth; Claimant and her husband also represented themselves to be sophisticated, experienced investors; Claimant and her husband both have had brokerage accounts since 1993, and Claimant's account applications with various firms state that she had still other accounts even earlier; throughout the time Claimant had an account at Morgan Keegan, Respondent Freiberg supervised Respondent LeBlanc and his handling of the account; and, based on the Claimant and her husband's representations of their prior investment experience, investment objectives, and financial situation, Respondent Freiberg concluded that Claimant and her husband's trading strategy comported with their financial means and objectives and, while far from ideal, was not inappropriate for them.

Respondent Morgan Keegan asserted a counterclaim which alleged that Claimant's client agreements entitled Morgan Keegan to recover its litigation expenses, including costs and attorneys' fees, in defending the action brought by Claimant and in pursuit of its fees and costs.

RELIEF REQUESTED

Claimant requested net out-of-pocket damages of just over \$400,000.00; punitive damages of \$302,398.98; costs; interest; reasonable attorneys' fees; dismissal of Respondent Morgan Keegan's counterclaim; and, such other relief as is appropriate.

Respondents requested a dismissal of Claimant's claims in their entirety plus recovery of any and all other legal and equitable relief to which they are entitled. Further, Respondent Morgan Keegan requested, pursuant to its counterclaim, all litigation expenses, including attorneys' fees and costs, incurred in defending against Claimant's claims and recovering Respondents' defense expenses.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant is awarded the sum of \$1.00 in compensatory damages. Further, Claimant is awarded the sum of \$250,000.00 in punitive damages pursuant to O.C.G.A. 51-12-5.1 and limited by paragraph (g) of said Code section. Interest shall be awarded on said sums at the rate of 12% per annum in accordance with Rule 10330(h) of the NASD-DR Code of Arbitration Procedure (the "Code"). Respondent Morgan Keegan is liable for one hundred percent of the award herein. Respondent Freiberg is jointly and severally liable with Respondent Morgan Keegan for up to thirty-five percent of the award herein. Respondent LeBlanc is jointly and severally liable with Respondent Morgan Keegan for up to fifteen percent of the award herein.

Respondent Morgan Keegan's counterclaim is denied.

Each party shall bear their respective costs, including attorneys' fees.

All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each

claim:

Initial claim filing fee = \$375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$3,500.00

Adjournment Fees

Adjournments requested during these proceeding:

No adjournments were requested during these proceedings.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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 Pre-hearing session with a single arbitrator x \$450.00	= \$450.00
Pre-hearing conference: July 14, 2000	1 session

One Pre-hearing session with Panel x \$1,200.00	= \$1,200.00
Pre-hearing conference: February 2, 2000	1 session

Twenty-one Hearing sessions x \$1,200.00	= <u>\$25,200.00</u>
Hearing Dates:	
June 19, 2000	2 sessions
June 20, 2000	2 sessions
June 21, 2000	2 sessions
June 22, 2000	2 sessions
June 23, 2000	2 sessions
July 17, 2000	2 sessions
July 18, 2000	2 sessions
July 19, 2000	2 sessions
July 20, 2000	2 sessions
July 21, 2000	2 sessions
<u>July 22, 2000</u>	<u>1 session</u>

Total Forum Fees = \$26,850.00

The Panel has assessed \$13,425.00 of the forum fees to Claimant.

The Panel has assessed \$13,425.00 of the forum fees to Respondent Morgan Keegan.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$375.00
Forum Fees	= \$13,425.00
Total Fees	= \$13,800.00
<u>Less payments</u>	<u>= \$1,575.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$12,225.00

Respondent Morgan Keegan be and hereby is solely liable for:

Member Fees	= \$6100.00
Forum Fees	= \$13,425.00
Total Fees	= \$19,525.00
<u>Less payments</u>	<u>= \$6,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$13,425.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

_____/s/_____
James J. Dalton, II, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Roger A. Kirschenbaum, Esq.
Public Arbitrator

Signature Date

_____/s/_____
E. Trice Laird
Industry Arbitrator

Signature Date

August 21, 2000

Date of Service (For NASD-DR office use only)

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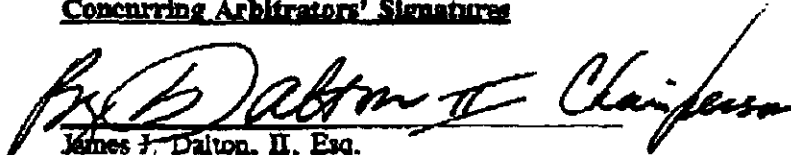
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James F. Dalton, II, Esq.
Public Arbitrator, Presiding Chair

15 August 2000
Signature Date

Roger A. Kirschenbaum, Esq.
Public Arbitrator

Signature Date

E. Trice Laird
Industry Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

James J. Dalton, II, Esq.
Public Arbitrator, Presiding Chair

Signature Date



8/15/2020

Roger A. Kirschenbaum, Esq.
Public Arbitrator

Signature Date:

E. Trice Laird
Industry Arbitrator

Signature Date

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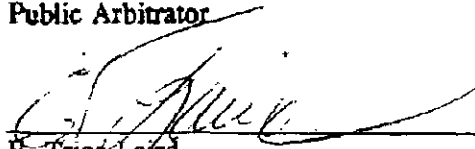
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James J. Dalton, II, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Roger A. Kirschenbaum, Esq.
Public Arbitrator

Signature Date


E. Trice Laird
Industry Arbitrator

8/15/00
Signature Date

Date of Service (For NASD-DR office use only)