

AWARD
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Name of Claimant

Diana Landau, as Trustee for the Laura E.A.
Forrester Hearell Revocable Trust

vs.

Case Number: 08-01276
Hearing Site: St. Louis, Missouri

Name of Respondent

Morgan Keegan & Company, Inc.

NATURE OF THE DISPUTE

Customer vs. Member

REPRESENTATION OF PARTIES

Diana Landau, as Trustee for the Laura E.A. Forrester Hearell Revocable Trust ("Claimant") was represented by Andrew Stoltmann, Esq. and David Neuman, Esq., Stoltmann Law Offices, P.C., Chicago, Illinois.

Morgan Keegan & Company, Inc. ("Morgan Keegan" or "Respondent") was represented by Terry R. Weiss, Esq., Greenberg Traurig, LLP, Atlanta, Georgia and Tucker H. Byrd, Esq., Greenberg Traurig, LLP, Orlando, Florida.

CASE INFORMATION

The Statement of Claim was filed on or about April 23, 2008. The Submission Agreement of Claimant was signed on or about April 13, 2008.

The Statement of Answer was filed by Respondent on or about July 21, 2008. The Submission Agreement of Respondent was signed on or about June 11, 2008.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentations and omissions; violation of the Missouri Securities Act of 2003; breach of fiduciary duty; violation of NASD conduct rules; negligence; failure to supervise; breach of contract; fraudulent misrepresentation; and vicarious liability. The causes of action related to the recommendation that Claimant invest significant portions of her account in proprietary

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Morgan Keegan mutual funds including the Regions Morgan Keegan Advantage Income Fund ("RMA"), the Regions Morgan Keegan Multi-Sector High Income Fund ("RHY"), and the Regions Morgan Keegan Select Intermediate Bond Fund, in Class I shares ("RIBIX"), collectively referred to as the "Funds." In 2006 and early 2007, Claimant made several investments in the Funds based on information provided by Respondent. Claimant alleged that when her shares in the Funds were completely sold off by December 2007, she realized a substantial loss. Claimant alleged that her loss was the result of Respondent's failure to disclose facts about the Funds; that the Funds' assets were invested in violation of restrictions on the amount of illiquid securities in which the Funds were permitted to invest; that the Funds investments exceeded the 25% limit on investments in a single industry; and that the Funds' portfolios were exposed to concentrations of credit risk because of heavy investments in collateralized debt obligations.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted; Claimant authorized, directed and ratified all of the transactions in the account; Claimant cannot demonstrate that Respondent made any misrepresentations or omissions of material fact; any statement by Respondent about a fund's expressed performance is nothing more than a statement of opinion, which cannot form the basis of liability; to the extent any material risks were not disclosed, they were unforeseeable; Claimant's breach of contract claim failed for the simple reason that Claimant has not identified any contractual provision Respondent can be said to have violated; Claimant's negligence claim failed because Respondent breached no duties owed to Claimant; the losses, if any were sustained as a result of Claimant's own assumption of risk and/or negligence; based on the Funds' prospectuses, Claimant is estopped from claiming reliance on any alleged representations to the contrary; Claimant, by her actions and inactions, waived the right to pursue her claims; and the Statement of Claim is barred, in whole or in part, based upon Claimant's failure to mitigate damages.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$89,653.00
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary relief	Unspecified

At the close of the hearing, Claimant requested \$173,043.00 inclusive of compensatory damages, punitive damages, interest, attorneys' fees, and costs.

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Respondent 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

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

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

- 1.) Respondent, Morgan Keegan & Company, Inc., is liable for and shall pay to Claimant, Diana Landau, as Trustee for the Laura E.A. Forrester Hearrell Revocable Trust, the sum of \$51,304.00 in compensatory damages;
- 2.) Respondent, Morgan Keegan & Company, Inc., is liable for and shall pay to Claimant, Diana Landau, as Trustee for the Laura E.A. Forrester Hearrell Revocable Trust, interest on the above-stated sum at the rate of 8% per annum from and including October 22, 2007 through and including April 30, 2009;
- 3.) Respondent, Morgan Keegan & Company, Inc., is liable for and shall pay to Claimant, Diana Landau, as Trustee for the Laura E.A. Forrester Hearrell Revocable Trust, the sum of \$50,000.00 in punitive damages pursuant to *Werremeyer v. K.C. Auto Salvage Co., Inc.*, 134 S.W.3d 633, 635 (Mo. 2004);
- 4.) Respondent, Morgan Keegan & Company, Inc., is liable for and shall pay to Claimant, Diana Landau, as Trustee for the Laura E.A. Forrester Hearrell Revocable Trust, the sum of \$8,000.00 in costs;
- 5.) Respondent, Morgan Keegan & Company, Inc., is liable for and shall pay to Claimant, Diana Landau, as Trustee for the Laura E.A. Forrester Hearrell Revocable Trust, one third (1/3) of the sum of compensatory damages, punitive damages and interest awarded, in attorneys fees pursuant to the Missouri Securities Act; and

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6.) Any relief not specifically enumerated is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial Claim filing fee	= \$	975.00
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*The filing fee is made up of a non-refundable and a refundable portion.

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, as a party Morgan Keegan & Company, Inc. is assessed the following:

Member surcharge	= \$	1,100.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	1,700.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each hearing session conducted. 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 a single arbitrator x \$450.00	= \$	450.00
Pre-hearing conference: February 20, 2009	1 session	
Two (2) Pre-hearing sessions with Panel x \$750.00	= \$	1,500.00
Pre-hearing conferences: August 27, 2008	1 session	
March 3, 2009	1 session	
Nine (9) Hearing sessions x \$750.00	= \$	6,750.00
Hearing Dates: April 28, 2009	3 sessions	
April 29, 2009	3 sessions	
April 30, 2009	3 sessions	
Total Hearing Session Fees	= \$	8,700.00

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The Panel has assessed \$4,350.00 of the hearing session fees to Diana Landau, as Trustee for the Laura E.A. Forrester Hearrell Revocable Trust.

The Panel has assessed \$4,350.00 of the hearing session fees to Morgan Keegan & Company, Inc.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Michael S. Hill - Public Arbitrator, Presiding Chair
Bruce D. Horton - Public Arbitrator
Kathryn Elizabeth Matlock - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

/s/ Michael S. Hill
Michael S. Hill
Public Arbitrator, Presiding Chair

May 6, 2009
Signature Date

/s/ Bruce D. Horton
Bruce D. Horton
Public Arbitrator

May 7, 2009
Signature Date

Kathryn Elizabeth Matlock
Non-Public Arbitrator

Signature Date

May 7, 2009
Date of Service (For FINRA office use only)

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Bruce D. Horton - Public Arbitrator
Kathryn Elizabeth Matlock - Non-Public Arbitrator

Concurring Arbitrators' Signatures:


Michael S. Hill
Public Arbitrator, Presiding Chair

5-6-09
Signature Date

Bruce D. Horton
Public Arbitrator

Signature Date

Kathryn Elizabeth Matlock
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA office use only)

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The Panel has assessed \$4,350.00 of the hearing session fees to Diana Landau, as Trustee for the Laura E.A. Forrester Hearrell Revocable Trust.

The Panel has assessed \$4,350.00 of the hearing session fees to Morgan Keegan & Company, Inc.


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Bruce D. Horton - Public Arbitrator
Kathryn Elizabeth Matlock - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Michael S. Hill
Public Arbitrator, Presiding Chair



Bruce D. Horton
Public Arbitrator

Kathryn Elizabeth Matlock
Non-Public Arbitrator

Signature Date

5/7/09

Signature Date

Signature Date

Date of Service (For FINRA office use only)