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**Award**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants  
Aubrey Wright  
Martha Wright

Case Number: 08-00315

Name of the Respondent  
Morgan Keegan & Company, Inc.

Hearing Site: Atlanta, Georgia

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Aubrey Wright ("A. Wright") and Martha Wright ("M. Wright"), hereinafter collectively referred to as "Claimants": Andrew Stoltmann, Esq., Stoltmann Law Offices, P.C., Chicago, Illinois.

For Morgan Keegan & Company, Inc. ("Morgan Keegan"), hereinafter referred to as "Respondent": Peter Anderson, Esq. and S. Lawrence Polk, Esq., Sutherland Asbill & Brennan, L.L.P., Atlanta, Georgia.

**CASE INFORMATION**

Statement of Claim filed on or about: February 4, 2008.  
Claimant A. Wright signed the Uniform Submission Agreement: February 1, 2008.  
Claimant M. Wright signed the Uniform Submission Agreement: February 1, 2008.  
Statement of Answer filed by Respondent on or about: April 28, 2008.  
Respondent signed the Uniform Submission Agreement: March 6, 2008.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) misrepresentations and omissions; 2) violation of the Georgia Securities Act of 1973; 3) breach of fiduciary duty; 4) violation of NASD conduct rules; 5) negligence; 6) failure to supervise; 7) breach of contract; 8) common law fraudulent misrepresentation; and, 9) vicarious liability. The causes of action relate to, among other things, Claimants' investments in the following funds: RMK High Income Fund; RMK Multi-Sector High Income Fund; RMK Strategic Income Fund; and, RMK Advantage Income Fund.

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

**RELIEF REQUESTED**

In the Statement of Claim, Claimants requested compensatory damages in excess of

**\$109,552.44; punitive damages in the amount of \$109,552.44; interest, attorneys' fees and costs of this action pursuant to Ga. Code Ann. § 10-5-14; and, such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.**

Respondent requested that the Panel reject Claimants' Statement of Claim in its entirety, order that Respondent's attorneys' fees and costs be paid by Claimants, and order that all forum fees be borne by Claimants.

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

At the close of the hearing, on or about October 22, 2008, Respondent moved for a Directed Award, to which Claimants objected. After careful consideration, the Panel determined to deny Respondent's motion.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

### **AWARD**

After considering the pleadings and 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:

Respondent is liable on the claim of violation of NASD conduct rules and shall pay to Claimants compensatory damages in the amount of \$90,052.00.

The parties' respective requests for attorneys' fees are denied.

Respondent shall pay to Claimants the sum of \$300.00, representing reimbursement of the non-refundable claim filing fee previously paid by Claimants to FINRA Dispute Resolution.

Any and all relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$1,425.00

**Concurring Arbitrators' Signatures**

/s/  
Joyce F. Glucksman  
Public Arbitrator, Presiding Chairperson

November 3, 2008  
Signature Date

/s/  
Robert A. Dean  
Public Arbitrator

November 3, 2008  
Signature Date

/s/  
Perry Lee Taylor, Jr.  
Non-Public Arbitrator

November 3, 2008  
Signature Date

November 4, 2008  
Date of Service (For FINRA Dispute Resolution office use only)

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

**Name of the Claimants**

Harold Sweet and Georgia Sweet

**Case Number:** 08-00432

**Name of the Respondent**

Morgan Keegan & Company, Inc.

**Hearing Site:** Little Rock, Arkansas

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

Harold Sweet and Georgia Sweet, hereinafter collectively referred to as "Claimants":  
Andrew Stoltmann, Esq., Stoltmann Law Offices, P.C., Chicago, Ill.

Morgan Keegan & Company, Inc., hereinafter referred to as "Respondent": S.  
Lawrence Polk, Esq., Sutherland Asbill & Brennan, LLP, Atlanta, Georgia.

**CASE INFORMATION**

Statement of Claim filed on or about: February 15, 2008.

Claimants signed the Uniform Submission Agreement: February 11, 2008.

Statement of Answer filed by Respondent on or about: May 9, 2008.

Respondent signed the Uniform Submission Agreement: March 5, 2008.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) suitability; 2) misrepresentation; 3) omissions; 4) violation of the Arkansas Securities Act; 5) breach of fiduciary duty; 6) violations of NASD conduct rules; 7) negligence; 8) failure to supervise; 9) breach of contract; 10) fraudulent misrepresentations; and 11) vicarious liability. The causes of action relate to the Claimants' investments in, including but not limited to, Regions Morgan Keegan High Income Fund, Regions Morgan Keegan Advantage Income Fund; Regions Morgan Keegan Multi-Sector High Income Fund; and Regions Morgan Keegan Strategic Income Fund all of which had allocations in collateralized obligations in bonds, loans and mortgages.

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) compensatory damages in the amount of \$135,000.00; 2) punitive damages in the amount of \$135,000.00; 3) interest on the foregoing amount; 4) attorneys' fees pursuant to Arkansas Code Section 23-42-105; 5) costs; and 6) other relief deemed just.

Respondent requested: 1) dismissal of the Statement of Claim in its entirety; 2) attorneys' fees; 3) costs; and 4) fees.

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

During the evidentiary hearing, Respondent made an *ore tenus* motion to strike and a motion *in limine* regarding evidence. Three elements of those motions were excluded by agreement of the parties and the fourth element was determined at the time of its introduction into evidence. The Panel denied the motions.

During the evidentiary hearing, Respondent made an *ore tenus* motion for a directed verdict at the end of Claimants' proof. The Panel denied the motion.

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:

Respondent is found liable under the cause of action of breach of fiduciary duty and shall pay to Claimants, jointly and severally, \$85,000.00 in compensatory damages.

Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code of Arbitration Procedures (the "Code"), the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution assessed a filing fee\* for each claim:

Initial claim filing fee

= \$1,425.00

\*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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent is a party and a member firm.

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

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

**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.

**Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each session conducted or each decision rendered on either a discovery-related motion on the papers or a contested motion for the issuance of a subpoena. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision Respondent submitted one (1) discovery-related motion	= \$ 200.00
One (1) Decision on a contested motion for the issuance of a subpoena with one (1) arbitrator @ \$200.00	= \$ 200.00

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session = \$ 450.00  
Pre-hearing conference: September 5, 2008 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00/session = \$1,125.00  
Pre-hearing conference: June 16, 2008 1 session

Seven (7) Hearing sessions @ \$1,125.00/session = \$7,875.00  
Hearing Dates: November 11, 2008 2 sessions  
November 12, 2008 2 sessions  
November 13, 2008 2 sessions  
November 14, 2008 1 session

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Total Hearing Session Fees = \$9,850.00

The Panel has assessed \$ 4,925.00 of the hearing session fees to Claimant.  
The Panel has assessed \$ 4,925.00 of the hearing session fees to Respondent.

**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 assessed during these proceedings.

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

**ARBITRATION PANEL**

Jay Robinson - Public Arbitrator, Presiding Chairperson  
John Davis - Public Arbitrator  
David Coates - Non-Public Arbitrator



**Concurring Arbitrators' Signatures**

/s/  
Joyce F. Glucksman  
Public Arbitrator, Presiding Chairperson

November 3, 2008  
Signature Date

/s/  
Robert A. Dean  
Public Arbitrator

November 3, 2008  
Signature Date

/s/  
Perry Lee Taylor, Jr.  
Non-Public Arbitrator

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