

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Philip Lee Willingham
Melinda H. Oates

Case Number: 08-00910

Name of the Respondent

Morgan Keegan & Company, Inc.

Hearing Site: Birmingham, Alabama

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Philip Lee Willingham ("Willingham") and Melinda H. Oates ("Oates"), hereinafter collectively referred to as "Claimants": Mark E. Maddox, Esq. and Keith L. Griffin, Esq., Maddox Hargett & Caruso, P.C., Fishers, Indiana.

For Morgan Keegan and Company, Inc., hereinafter referred to as "Respondent": John N. Bolus, Esq. and Joshua D. Jones, Esq., Maynard Cooper & Gale, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: March, 27, 2008.

Claimants signed the Submission Agreement: March 14, 2008.

Respondent signed the Submission Agreement: May 5, 2008.

Statement of Answer filed by Respondent on or about: June 30, 2008.

CASE SUMMARY

Claimants asserted the following causes of action: (1) violation of the "Know Your Customer Rule" as well as the duty to monitor and disclose material information; (2) misrepresentation and omission of material facts; (3) breach of fiduciary duty and constructive fraud; (4) breach of contract; (5) common law fraud; (6) violation of NASD Conduct Rules; (7) negligence and breach of duty; (8) respondeat superior; and, 9) negligent supervision. The causes of action relate to, among other things, Claimants' investments in the following proprietary mutual funds: (1) RMK Select Intermediate Bond Fund; and, (2) RMK Multi-Sector High Income Fund.

Unless specifically admitted 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: (1) actual damages in excess of

\$109,881.00; (2) well-managed damages had the account had been properly invested; (3) pre- and post-judgment interest at the legal rate; (4) costs of arbitration, including filing fees, expert witness fees, reasonable attorneys' fees, arbitrator fees and expenses; and, (5) punitive damages.

In its Answer to the Statement of Claim, Respondent requested that: (1) the Panel reject the Statement of Claim in its entirety; (2) attorneys' fees and costs be paid by Claimant; and, (3) forum fees be borne by Claimant.

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:

Respondent is liable and shall pay to Claimants compensatory damages in the amount of \$187,215.00, pre-award interest specifically excluded.

Any and all relief not specifically addressed herein, including Claimants' request for punitive damages and the parties' respective requests for attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure (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 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:

No adjournment fees were 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:

No three-day cancellation fees were 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.

No injunctive relief fees were assessed during these proceedings.

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

No discovery-related motion fees were assessed during these proceedings.

Contested Motion for Issuance of a Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

No contested motion for issuance of a subpoena fees were assessed during these proceedings.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each 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 @ \$450.00/session = \$ 450.00
Pre-hearing conference: February 13, 2009 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,125.00/session = \$2,250.00
Pre-hearing conferences: July 22, 2008 1 session
February 25, 2009 1 session

Five (5) Hearing sessions @ \$1,125.00/session = \$5,625.00
Hearing Dates: March 3, 2009 2 sessions
March 4, 2009 2 sessions
March 5, 2009 1 session

Total Hearing Session Fees = \$8,325.00

1. The Panel has assessed \$4,162.50 of the hearing session fees jointly and severally to Claimants.
2. The Panel has assessed \$4,162.50 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.

No administrative costs were assessed during these proceedings.

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

ARBITRATION PANEL

<i>Donald Milo Helton</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Norman David Freeman</i>	-	<i>Public Arbitrator</i>
<i>Coleman Robert Perry, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

<i>/s/</i>	<u>3/11/09</u>
<u>Donald Milo Helton</u> Public Arbitrator, Presiding Chairperson	<u>Signature Date</u>
<i>/s/</i>	<u>3/11/09</u>
<u>Norman David Freeman</u> Public Arbitrator	<u>Signature Date</u>
<i>/s/</i>	<u>3/11/09</u>
<u>Coleman Robert Perry, Jr., CFP</u> Non-Public Arbitrator	<u>Signature Date</u>

March 11, 2009

Date of Service (For FINRA Dispute Resolution office use only)

1. The Panel has assessed \$4,162.50 of the hearing session fees jointly and severally to Claimants.
2. The Panel has assessed \$4,162.50 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.

No administrative costs were assessed during these proceedings.

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

ARBITRATION PANEL

<i>Donald Milo Helton</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Norman David Freeman</i>	-	<i>Public Arbitrator</i>
<i>Coleman Robert Perry, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Donald Milo Helton
Public Arbitrator, Presiding Chairperson

3/11/09
Signature Date

Norman David Freeman
Public Arbitrator

Signature Date

Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

1. The Panel has assessed \$4,162.50 of the hearing session fees jointly and severally to Claimants.
2. The Panel has assessed \$4,162.50 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.

No administrative costs were assessed during these proceedings.

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

ARBITRATION PANEL

<i>Donald Milo Helton</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Norman David Freeman</i>	-	<i>Public Arbitrator</i>
<i>Coleman Robert Perry, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Donald Milo Helton
Public Arbitrator, Presiding Chairperson

Signature Date

N. David Freeman
Norman David Freeman
Public Arbitrator

3/11/2009
Signature Date

Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

1. The Panel has assessed \$4,162.50 of the hearing session fees jointly and severally to Claimants.
2. The Panel has assessed \$4,162.50 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.

No administrative costs were assessed during these proceedings.

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

ARBITRATION PANEL

<i>Donald Milo Helton</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Norman David Freeman</i>	-	<i>Public Arbitrator</i>
<i>Coleman Robert Perry, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Donald Milo Helton
Public Arbitrator, Presiding Chairperson

Signature Date

Norman David Freeman
Public Arbitrator

Signature Date


Coleman Robert Perry, Jr., CFP
Non-Public Arbitrator

3-11-09
Signature Date

Date of Service (For FINRA Dispute Resolution office use only)