

**AWARD**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

**Names of Claimants**

Paul Hollingsworth and Alma F. Hollingsworth,  
as Trustees for the Hollingsworth Family Trust,  
Alma F. Hollingsworth, for her IRA,  
and Paul Hollingsworth, for his IRA

vs.

Case Number: 08-00674  
Hearing Site: Cincinnati, Ohio

**Names of Respondents**

Morgan Keegan & Company, Inc.  
and Regions Financial Corporation

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**NATURE OF THE DISPUTE**

Customers vs. Member and Non-Member

**REPRESENTATION OF PARTIES**

Paul Hollingsworth and Alma F. Hollingsworth, as Trustees for the Hollingsworth Family Trust, Alma F. Hollingsworth, for her IRA, and Paul Hollingsworth, for his IRA ("Claimants") were represented by Jahan K. Manasseh, Esq., Klayman & Toskes, PA, Boca Raton, Florida, until a Notice of Withdrawal was filed on or about June 15, 2009. After which, Claimants were represented by Howard Prossnitz, Esq., Law Offices of Howard Prossnitz, Chicago, Illinois.

Morgan Keegan & Company, Inc. ("Morgan Keegan") and Regions Financial Corporation ("Regions"), hereinafter collectively referred to as "Respondents," were represented by Christopher G. Lazarini, Esq., Bass, Berry & Sims, PLC, Memphis, Tennessee, until a Entry of Appearance was filed on or about September 11, 2009, stating that Respondents were now represented by Stephen H. Kupperman, Esq., and Michael R. Robinson, Esq., Barrasso Usdin Kupperman Freeman & Sarver, LLC, New Orleans, Louisiana.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 7, 2008. The Submission Agreement of Claimants, Paul Hollingsworth and Alma F. Hollingsworth, as Trustees for the Hollingsworth Family Trust, Alma F. Hollingsworth, for her IRA, and Paul Hollingsworth, for his IRA, was signed on or about March 21, 2008.

The Statement of Answer was filed jointly by Respondents, Morgan Keegan & Company Inc. and Regions Financial Corporation, on or about July 10, 2008. The Submission Agreement of Respondent, Morgan Keegan & Company, Inc., was signed on or about May 30, 2008. The Submission Agreement of Respondent, Regions Financial Corporation, was signed on or about May 30, 2008.

### **CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentations; omissions; breach of fiduciary duty; fraud; negligence; violation of 10(b)-5 of the Securities Act of 1933; violation of Section 11 of the Securities Act of 1933; and violation of 12(a)(2) of the Securities Act of 1933. Claimants stated that they incurred losses in Morgan Keegan closed-end funds including RMK High Income Fund, RMK Advantage Income Fund, and RMK Strategic Income Fund, hereinafter collectively referred to as ("Funds"). Claimants alleged that the losses were a direct result of Respondents' false and misleading information about these Funds' risk tolerance and degree of diversification. Claimants also alleged that Respondents misrepresented and omitted material information on the Funds' investments in collateralized debt obligations and the Funds' resulting exposure to the subprime mortgage market.

Unless specifically admitted in their Answer, Respondents, Morgan Keegan & Company, Inc. and Regions Financial Corporation, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred by the applicable statutes of limitations and/or statutes of repose and the doctrine of laches; Claimants' claims are barred by the doctrines of due diligence, ratification, waiver, estoppel, contributory/comparative negligence, and assumption of risk; Respondents neither owed or breached any duties to Claimants; Claimants cannot establish the requisite "scienter" on the part of Morgan Keegan or Regions; any injury, loss or damage was the result of superseding or intervening causes beyond the control of Respondents, including, but not limited to, external market conditions and the acts of third parties not controlled by Respondents; Claimants' damages, to the extent that there are any, are subject to appropriate reduction or set off by the amount of income received by the funds; and the Statement of Claim failed to state a claim upon which relief can be granted.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$170,000.00
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified

Other Costs	Unspecified
Other Monetary Relief	Unspecified

At the close of the hearing, Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$ 189,149.51
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents, Morgan Keegan & Company, Inc. and Regions Financial Corporation, requested that the claims asserted against them be denied in their entirety and that be awarded their costs and attorneys' fees.

#### **OTHER ISSUES CONSIDERED & DECIDED**

On or about October 21, 2009, Claimants filed a Motion to Withdraw their Breach of Fiduciary Claim with prejudice. Respondents did not file a response. At the hearing, the Panel granted Claimants' Motion to Withdraw their Breach of Fiduciary Claim with prejudice.

At the conclusion of Claimants' case-in-chief, Respondents made a Motion for a Directed Verdict. After deliberation, the Panel denied Respondents' Motion.

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 Claimants, Paul Hollingsworth and Alma F. Hollingsworth, as Trustees for the Hollingsworth Family Trust, Alma F. Hollingsworth, for her IRA, and Paul Hollingsworth, for his IRA, the sum of \$57,582.48 in compensatory damages;

- 2.) Respondent, Morgan Keegan & Company, Inc., is liable for and shall pay to Claimants, Paul Hollingsworth and Alma F. Hollingsworth, as Trustees for the Hollingsworth Family Trust, Alma F. Hollingsworth, for her IRA, and Paul Hollingsworth, for his IRA, the sum of \$300.00 in costs; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, 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 = \$ 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 that employed the associated persons 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 = \$ 1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 2,750.00

#### **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 last 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: October 5, 2009 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00  
Pre-hearing conference: October 13, 2008 1 session

Eight (8) Hearing sessions x \$1,125.00		= \$ 9,000.00
Hearing Dates:	November 3, 2009	2 sessions
	November 4, 2009	3 sessions
	November 5, 2009	3 sessions
<hr/> Total Hearing Session Fees		= \$ 10,575.00

The Panel has assessed \$10,575.00 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**

David W. Stanton - Public Arbitrator, Presiding Chair  
Belinda M. Ohlinger - Public Arbitrator  
Harold Dean Tolbert, Jr. - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

  
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David W. Stanton  
Public Arbitrator, Presiding Chair

  
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Signature Date

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Belinda M. Ohlinger  
Public Arbitrator.

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Signature Date

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Harold Dean Tolbert, Jr.  
Non-Public Arbitrator

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Signature Date

  
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Date of Service (For FINRA office use only)

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Belinda M. Ohlinger  
Public Arbitrator

\_\_\_\_\_  
Signature Date

12/2/09

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