



VIA FACSIMILE and MAIL

312-332-4201

May 8, 2009

David Neuman, Esq.  
 Stoltmann Law Offices, P.C.  
 10 South LaSalle Street  
 Suite 3500  
 Chicago, IL 60603

Subject: FINRA Dispute Resolution Arbitration Number 08-00336  
 Edward L. King, Jr. and Roderick E. King vs. Morgan Keegan & Company, Inc.

Dear Mr. Neuman:

In accordance with the Code of Arbitration Procedure I enclose the decision reached by the arbitrator(s) in the above-referenced matter.

Responsibility to Pay Monetary Award

Pursuant to the Code of Arbitration Procedure<sup>1</sup> the responsible party must pay any monetary awards within 30 days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. If an award is not paid within 30 days, the responsible party must pay post-judgment interest at the legal rate or as provided in the award by the arbitrator(s).

Tracking Payment of Award

FINRA Dispute Resolution has implemented a system of monitoring and tracking compliance with arbitration awards by members and associated persons. We request prevailing claimants to notify us in writing when their awards have not been paid within 30 days of receipt of the award, and require member firms to certify in writing that they have complied with awards against them or their associated persons.

Written notification concerning award compliance or lack thereof must be directed to:

Avichai Badash  
 FINRA Dispute Resolution  
 One Liberty Plaza

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<sup>1</sup>Customer Code Rule 12904  
 Industry Code Rule 13904  
 Old Code Rule 10330(h)

165 Broadway, 52nd Floor  
New York, NY 10006  
212-858-4325 (tel) 301-527-4739 (fax)

Expedited Suspension Proceedings for Non-Payment of Awards

Members and associated persons who do not comply with an award in a timely manner are subject to expedited suspension proceedings as set forth in Rule 9554.

Right to File Motion to Vacate Award

All awards are **final** and are not subject to review or appeal by the arbitration panel or by FINRA Dispute Resolution. Any party wishing to challenge the award must make a motion to vacate the award **in a federal or state court** of appropriate jurisdiction pursuant to the Federal Arbitration Act, 9 U.S.C. § 10, or applicable state statute. There are limited grounds for vacating an arbitration award, and a party must bring a motion to vacate within the time period specified by the applicable statute. Parties and counsel should consult federal and state statutes and case law to determine the appropriate court, standards, and time limitations in their individual circumstances. FINRA Dispute Resolution is not authorized to provide legal advice concerning a motion to vacate.

A motion to vacate, confirm, or modify an arbitration award is a matter only between the parties to the arbitration. FINRA Dispute Resolution is not a proper party to post-award motions and should not be named as a party to any post-award motion. However, for cases filed on or after April 12, 2004, if the award contains expungement relief, or if a party seeks expungement relief in court, there may be a duty to name FINRA as a party as provided in Rule 2130.

Questions Concerning Award

Please direct any questions regarding this award to me. **The parties must not contact the arbitrators directly.**

Forum Fees

You will receive under separate cover an invoice that reflects the fees assessed and any outstanding balance or refund due. **Fees are due and payable to FINRA Dispute Resolution upon receipt of the invoice and remitted to the address specified on the invoice.**

Any applicable refunds will also be sent under separate cover approximately 45 days after the case closes. Pursuant to the Code of Arbitration Procedure, "Any refunds of fees or costs incurred under the Code will be paid directly to the named parties, even if a non-party made payment on behalf of the named parties."<sup>2</sup>

All questions regarding payment of fees and refunds should be directed to FINRA Finance at (240) 386-5910.

Arbitration Evaluation

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<sup>2</sup> Customer Code Rule 12902(e)  
Industry Code Rule 13902(e)

As a service organization, the primary goals of FINRA Dispute Resolution are the integrity of its process and the satisfaction of its clients. To ensure that we are meeting your needs and satisfying our commitment to you, **we need to hear from you**. If you have not already done so, please take the time to complete an evaluation of our services, the process, and the arbitrator(s) assigned to your case. For your convenience, we have now made it possible for you to evaluate our services using the Internet. Please direct your Web browser to <http://www.finra.org/arbevaluation>.

If you do not have Internet access, or have difficulty completing the evaluation form online, we will send a hard copy evaluation form to you. The completed evaluation form should be mailed in to the address indicated below. If you need a hard copy of the evaluation form, please contact the undersigned. Whenever possible, however, we encourage you to use the new online version, as it will help us to review your feedback in a more expeditious manner. Your feedback is a valuable and necessary component in our efforts to serve you better.

Very truly yours,

/S/

Nene E. Ndem  
Case Administrator  
Phone: 561-416-0277  
Fax: 301-527-4868  
SEProcessingCenter@finra.org

NEN:ndm:LC09A  
idr: 03/09/2009

Enclosure

RECIPIENTS:

David Neuman, Esq., Roderick E. King  
Stoltmann Law Offices, P.C., 10 South LaSalle Street, Suite 3500, Chicago, IL 60603

David Neuman, Esq., Edward L. King, Jr.  
Stoltmann Law Offices, P.C., 10 South LaSalle Street, Suite 3500, Chicago, IL 60603

S. Lawrence Polk, Esq., Morgan Keegan & Company Inc  
Sutherland Asbill & Brennan LLP, 999 Peachtree Street, NE, Atlanta, GA 30309-3996

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

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In the Matter of the Arbitration Between:

Names of the Claimants

Edward L. King, Jr.  
Roderick E. King

Case Number: 08-00336

Name of the Respondent

Morgan Keegan & Company, Inc.

Hearing Site: Birmingham, Alabama

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Edward L. King, Jr. ("E. King"), and Roderick E. King ("R. King"), hereinafter collectively referred to as "Claimants": Andrew Stoltmann, Esq., Stoltmann Law Offices, P.C., Chicago, Illinois.

For 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 4, 2008.

Claimant E. King signed the Submission Agreement on or about: January 29, 2008.

Claimant R. King signed the Submission Agreement on or about: January 31, 2008.

Statement of Answer filed by Respondent on or about: May 2, 2008.

Respondent signed the Submission Agreement on or about: March 20, 2008.

Motion to Strike and Motion in Limine filed by Respondent on or about: April 6, 2009.

**CASE SUMMARY**

Claimants asserted the following causes of action: 1) misrepresentations and omissions; 2) violation of the Alabama Securities Act; 3) violation of the Alabama Deceptive Trade Practices Act; 4) breach of fiduciary duty; 5) violation of NASD Conduct Rules; 6) negligence; 7) failure of supervision; 8) breach of contract; 9) fraudulent misrepresentation; and, 10) vicarious liability. The causes of action relate to Claimants' investments in the following proprietary bond funds: Regions Morgan Keegan High Income Fund, Regions Morgan Keegan Advantage Income Fund, Regions Morgan Keegan Multi-Sector High Income Fund, Regions Morgan Keegan Strategic Income Fund, Regions Morgan Keegan Select Intermediate Bond Fund, and Regions Morgan Keegan Select High Income Fund, collectively the "RMK Funds".

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: 1) compensatory damages for a sum in excess of \$420,000.00; 2) punitive damages, or treble damages; 3) interest on the foregoing amount; 5) attorneys' fees; 6) costs; and, 7) such other and further relief as this Panel deemed just and proper.

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

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

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

On or about June 10, 2008, Claimants filed with FINRA Dispute Resolution a notice of their voluntary opt-out of any and all class actions regarding the Morgan Keegan proprietary bond or income funds that have been filed or may be filed against Respondent. In their correspondence, Claimants further stated that they will not participate in these class actions or in any recovery that may result from these class actions.

Respondent filed a Motion to Strike and Motion in Limine within 20 days of the hearing. The Panel directed FINRA Dispute Resolution staff to inform the parties that it would address the motion during the evidentiary hearing. The Panel further directed FINRA Dispute Resolution staff to refrain from providing copies of the motion to the Panel and instructed the parties to provide copies of the motion, and any responses thereto, directly to the Panel at the evidentiary hearing. In lieu of filing a written response, Claimants orally objected to the motion at the hearing. After consideration of the parties' positions, the Panel determined to deny Respondent's motion.

At the close of Claimants' case-in chief, Respondent moved to dismiss claims relating to the RMK Funds on the basis that such claims fail as a matter of law. Respondent also moved to dismiss Claimants' claims in their entirety on the basis that Claimants' claims are without a basis as a matter of law. Claimants objected to both motions. After consideration of the parties' positions, the Panel determined to deny Respondent's motions.

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 Claimant E. King compensatory damages

in the amount of \$325,449.00.

Respondent is liable and shall pay to Claimant R. King compensatory damages in the amount of \$130,220.00.

Respondent is liable and shall pay to Claimants interest on their respective compensatory damage awards at the rate of 6% per annum accruing from January 1, 2007 until paid in full.

Respondent is liable and shall pay to Claimants costs in the total amount of \$12,500.00, inclusive of \$7,500.00 in expert witness fees.

Respondent is liable and shall pay attorneys' fees in the amount of \$108,375.00 to Claimant E. King and \$43,363.00 to Claimant R. King, pursuant to the Alabama Deceptive Trade Practices Act and Common Law.

Respondent is liable and shall reimburse Claimants the sum of \$600.00, representing the non-refundable portion of the claim-filing fee paid by Claimants to FINRA Dispute Resolution.

Any and all relief not specifically addressed herein, including Claimants' request for punitive or treble damages and Respondent's request 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 = \$1,800.00

*\*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. Respondent is a party to this dispute and a member firm.

Accordingly, the following fees have been assessed:

Member surcharge = \$2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,000.00

#### Contested Motion for Issuance of a Subpoena Fees

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

One (1) Decision on a contested motion for the issuance of a subpoena

(1) One arbitrator @ \$200.00 = \$200.00

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Total Contested Motion for Issuance of Subpoenas Fees = \$200.00

The Panel has assessed the total \$200.00 contested motion for issuance of subpoenas fee to Respondent.

**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 last four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$2,400.00  
Pre-hearing conferences: June 12, 2008 1 session  
January 26, 2009 1 session

Seven (7) Hearing sessions @ \$1,200.00 =\$8,400.00  
Hearing Dates: April 14, 2009 2 sessions  
April 15, 2009 3 sessions  
April 16, 2009 2 sessions

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Total Hearing Session Fees =\$10,800.00

1. The Panel has assessed \$3,600.00 of the hearing session fees to Claimant Edward King.
2. The Panel has assessed \$1,800.00 of the hearing session fees to Claimant Roderick King.
3. The Panel has assessed \$5,400.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

*Lita S. Menkin, J.D.* - *Public Arbitrator, Presiding Chairperson*  
*James Edward Seale* - *Public Arbitrator*  
*M. Bruce Adelberg* - *Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

/s/

5/7/09

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Lita S. Menkin, J.D.  
Public Arbitrator, Presiding Chairperson

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Signature Date