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Jury Verdicts & Settlements

Attorneys recover for couple whose conservative investment was risky

June 24, 2009

By: Review staff & VerdictSearch

Case: Philip Richardson, as trustee of the Philip Richardson Revocable Trust, et al. vs. Morgan Keegan & Co.

Case No.: 08-cv-01333

Description: Securities dispute

Filing date: April 28, 2008

Hearing dates: May 26-29, 2009

Ruling: June 9, 2009

Arbitrators: Thomas Anthony Van Tiem, S. Harvey Ziegler and Marc S. Piven

Award: \$431,000

Plaintiff attorneys: Jeffrey Sonn and Jeffrey Erez, Sonn & Erez, Fort Lauderdale

Defense attorneys: John Bolus and Joshua Jones, Maynard Cooper & Gale, Birmingham, Ala.

[Dispute Resolution](#)

Details: Retirees Philip and Kay Richardson, who split time between homes in Boynton Beach and Virginia Beach, Va., contacted Memphis-based Morgan Keegan about investing in mutual funds, saying they were interested in generating income to meet their living expenses. Philip Richardson, 74, had a financial background in the mortgage business.

The couple was referred to a broker in the company's Memphis office, who persuaded the Richardsons to invest savings in the RMK Select High Income Fund and the RMK Select Intermediate Bond Fund starting in 2002. The broker told the couple that the funds were "conservative and value-oriented," according to a complaint filed by the couple with the Financial Industry Regulatory Authority after they lost \$354,216, or 41 percent of their \$872,162 investment.

As it turned out, the funds performed miserably when the economy faltered. The High Income Fund lost 59.7 percent in 2007 and 22.5 percent in 2008, while the bond fund



Jeffrey Erez and Jeffrey Sonn



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lost 50.3 percent in 2007 and 43.2 percent in 2008.

Plaintiff case: Despite their request to have their money put in conservative funds, the Richardsons' money was put into "volatile, risky illiquid investments," they claimed. The couple alleged, among other things, breach of fiduciary duty, negligence, breach of contract and fraud. Erez said the funds were based on an investment pool of mortgages, subprime loans and airplane leases.

"It was incredible. They were marketing it as really safe, but it was loaded with risk," he said.

The Richardsons sought statutory damages up to \$485,000 for compensation, interest and damages.

Defense Case: Maynard Cooper & Gale referred comment to Morgan Keegan, but a call for comment was not returned before deadline.

Erez said attorneys for the investment company argued the Richardsons knew the risks, and he said Morgan Keegan claimed "losses were due to the credit crisis."

Outcome: FINRA, the self-regulating body for the financial industry, arbitrates nearly all disputes between investors and securities brokers under standard clauses in agreements between brokers and their clients. Investors with complaints must make their case in front of a three-member panel. The FINRA panel did not explain the basis for the award, which includes prejudgment interests and \$20,000 in legal costs.

Quote: "It is a great result to obtain an award in excess of net out-of-pocket losses for a sophisticated investor," Erez said, especially in an arena considered tough for investors. "It's not the typical jury pool. It's equivalent to suing for malpractice and have a doctor sitting as a judge."

Post-decision: Erez said his law firm has at least two dozen cases pending against Morgan Keegan. It has won six cases so far on similar claims that went to a FINRA final hearing. The Richardsons received their payment this month.

-John Pacenti

Premises liability

Broward Circuit Court

Landlord not liable for tenant's fall

A jury declined to award damages to a tenant who slipped and fell on water that had accumulated on the floor near her sink.

Aleatha Jean claimed M&G Property Management failed to properly maintain her apartment. Jean said she informed a handyman about the leaking sink, and he promised to fix it but never did.

The defense called the handyman, who could not remember the conversation with Jean. Defense counsel stated Jean never informed her landlord of the problem, and there was no paperwork authorizing work for her apartment.

Case: Jean v. M&G Property Management LLC

Case No.: 06002645 08

Plaintiff lawyer: James M. Loren, Loren & Associates, Plantation

Defense lawyers: Stuart Cohen and Todd M. Feldman, Conroy Simberg Ganon Krevans Abel Lurvey Morrow & Schefer, Hollywood

Motor Vehicle

Miami-Dade Circuit Court

Car driver didn't cause scooter's crash

A jury rejected a woman's claim that she crashed her motor scooter because she was cut off by a car.

Lisa Shively claimed Heather Rockwell cut her off, causing her to lose control of her scooter. Shively, who was wearing sandals, sustained a foot degloving injury.

Rockwell conceded she was driving in the general vicinity but denied causing the crash. Defense counsel argued Shively's accounts of the collision varied. She told police she had been hit by a car but told hospital employees that she had been cut off. Witnesses testified that they saw Shively struck from behind.

Case: Shively v. Rockwell

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