

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Donald A. Hausfeld and Judith A. Hausfeld

Case Number: 10-04056

vs.

Respondent

Morgan Keegan & Company, Inc.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

For Donald A. Hausfeld and Judith A. Hausfeld, hereinafter collectively referred to as "Claimants": Jeffrey Erez, Esq., Sonn & Erez, PLC, Fort Lauderdale, Florida.

For Morgan Keegan & Company, Inc., hereinafter referred to as "Respondent": Carl Burkhalter, Esq. and Josh Jones, Esq., Maynard Cooper & Gale PC, Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: September 10, 2010.

Claimants signed the Submission Agreement: August 30, 2010.

Statement of Answer filed by Respondent on or about: November 10, 2010.

Respondent signed the Submission Agreement: September 30, 2010.

Motion in Limine to Exclude Evidence Relating to Purported Mismanagement of Funds filed by Respondent on or about: April 3, 2012.

Motion in Limine to Exclude Regulatory Evidence filed by Respondent on or about: April 3, 2012.

Opposition to Motion in Limine to Exclude Evidence Relating to Purported Mismanagement of Funds filed by Claimants on or about: April 13, 2012.

Opposition to Motion in Limine to Exclude Regulatory Evidence filed by Claimants on or about: April 13, 2012.

Reply in Support of Motion in Limine to Exclude Evidence Relating to Purported Mismanagement of Funds filed by Respondent on or about: April 18, 2012.

Reply in Support of Motion in Limine to Exclude Regulatory Evidence filed by Respondent on or about: April 18, 2012.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) negligent supervision; 3) negligence; 4) fraud; 5) breach of contract; 6) violation of the Georgia Securities Act; and, 7) misrepresentations and omissions. The causes of action relate to Respondent's failure to advise Claimants of the nature and extent of the risks involved in purchasing the RMK Advantage Income Fund in Claimants' accounts.

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 the amount of \$500,000.00, rescissionary and/or statutory damages, punitive damages, interest, costs, attorney's fees, and such other and further relief as this Panel deemed just and proper.

At the close of the hearing, Claimants requested compensatory damages in the amount of \$628,900.71, expenses in the amount of \$31,000.00, attorney's fees in the amount of \$209,423.93, and an unspecified amount of punitive damages.

In its Statement of Answer, Respondent requested that the Panel reject Claimants' Statement of Claim in its entirety, attorneys' fees, costs, and assess FINRA hearing fees against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On or about April 3, 2012, Respondent filed a Motion in Limine to Exclude Regulatory Evidence asserting, among other things, that Claimants should be precluded from presenting irrelevant evidence at the final hearing related to certain regulatory matters. On or about April 13, 2012, Claimants filed their Opposition to Motion in Limine to Exclude Regulatory Evidence asserting, among other things, that the regulatory documents should be admissible as public records under the Federal Rules of Evidence. In its Reply in Support of the Motion in Limine to Exclude Regulatory Evidence, Respondent asserted, among other things, that the possible relevance of specific documents or other evidence does not make the regulators' allegations, or the mere existence of those regulatory actions, relevant to this matter. Subsequently, at the final hearing, the Panel denied the motion.

On or about April 3, 2012, Respondent filed a Motion in Limine to Exclude Evidence Relating to Purported Mismanagement of Funds asserting, among other things, that certain claims asserted by Claimants are derivative rather than individual claims and that, under FINRA rules, such claims cannot be brought in arbitration. On or about April

13, 2012, Claimants filed their Opposition to Motion in Limine to Exclude Evidence Relating to Purported Mismanagement of Funds asserting, among other things, that their claims are for misrepresentations and omissions, not for mismanagement. In its Reply in Support of the Motion in Limine to Exclude, Respondent asserted, among other things, that certain claims are derivative and Claimants are prohibited from bringing them before a FINRA panel. Subsequently, at the final hearing, 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 and shall pay to Claimants compensatory damages in the amount of \$231,352.00, plus interest pursuant to Georgia law at the rate of 7% per annum accruing from November 12, 2004 until April 27, 2012.

Respondent is found liable and shall pay to Claimants attorney's fees pursuant to the state of Georgia law OCGA § 10-5-14 in the amount of \$139,749.00.

Respondent is found liable and shall pay to Claimants costs in the amount of \$31,000.00.

Any and all relief not specifically addressed herein, including Claimants' request for punitive damages and Respondent's request for attorneys' fees, is 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, as a party and a member firm Respondent is assessed the following:

Member Surcharge = \$ 1,700.00
Pre-Hearing Processing Fee = \$ 750.00

Hearing Processing Fee

= \$ 2,750.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 900.00
Pre-hearing conferences: January 16, 2012 1 session
April 18, 2012 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 2,250.00
Pre-hearing conferences: February 11, 2011 1 session
February 6, 2012 1 session

Eleven (11) Hearing sessions @ \$1,125.00/session = \$12,375.00
Hearing Dates: April 23, 2012 2 sessions
April 24, 2012 2 sessions
April 25, 2012 2 sessions
April 26, 2012 3 sessions
April 27, 2012 2 sessions

Total Hearing Session Fees

= \$15,525.00

The Panel has assessed the total hearing session fees in the amount of \$15,525.00 to Respondent.


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

ARBITRATION PANEL

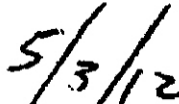
David L. Maislen	-	Public Arbitrator, Presiding Chairperson
Jay M. Vogelsson	-	Public Arbitrator
Marvin J. Klein	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures



David L. Maislen
Public Arbitrator, Presiding Chairperson



Signature Date

Jay M. Vogelsson
Public Arbitrator

Signature Date

Marvin J. Klein
Non-Public Arbitrator

Signature Date

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

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Signature Date



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Non-Public Arbitrator

5/3/12

Signature Date

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