

**Award  
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant  
Gerald E. Humphries

Case Number: 08-00574

Name of the Respondent  
Morgan Keegan & Company, Inc.

Hearing Site: Jackson, Mississippi

Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Gerald E. Humphries, hereinafter referred to as "Claimant": Jeffrey Erez, Esq. and Jeffrey Sonn, Esq., Sonn & Erez, PLC, Fort Lauderdale, Florida.

For Morgan Keegan & Company, Inc., hereinafter referred to as "Respondent": Peter Fruin, Esq., Maynard Cooper & Gale, PC, Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: February 28, 2008.  
Claimant signed the Submission Agreement: February 22, 2008.  
Statement of Answer filed by Respondent on or about: May 30, 2008.  
Respondent signed the Submission Agreement: April 9, 2008.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of fiduciary duty; 2) negligence; 3) negligent supervision; 4) fraud; 5) breach of contract; 6) violation of the Mississippi Securities Act; 7) violation of § 11 of the Securities Act of 1933; and, 8) violation of § 12(a)(2) of the Securities Act of 1933. The causes of action relate to, among other things, Claimant's investment in the Regions Morgan Keegan Select Intermediate Bond Fund.

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, Claimant requested an award for rescission and/or damages in the amount of \$500,000.00, interest, costs and such other and further relief this Panel deems just and proper.

At the close of the hearing, Claimant requested compensatory damages in the amount of \$213,970.00, punitive damages in the amount of \$641,910.00, costs in the amount of

\$7,866.00, expert witness fees in the amount of \$18,500.00 and attorney's fees in the amount of \$85,588.00.

In the Statement of Answer, Respondent requested that the Panel reject Claimant's Statement of Claim in its entirety and that the Panel order Claimant to pay all of its attorneys' fees and costs.

### **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 March 17, 2009, Claimant notified FINRA Dispute Resolution that he had filed a Notice of Opt-out of the Class Action proceedings pursuant to Rule 12204(b) of the Code of Arbitration Procedure (the "Code").

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 for violation of the Mississippi Securities Act, breach of fiduciary duty, negligence, negligent supervision and breach of contract and shall pay to Claimant compensatory damages in the amount of \$195,589.00.

Respondent is liable and shall pay to Claimant pre-judgment interest from November 1, 2006 until April 30, 2008 pursuant to § 75-71-717(a) of the Mississippi Securities Act in the amount of \$18,381.00, plus post-judgment interest at the statutory rate in the state of Mississippi (8%) per annum from the date of service of the Award until payment in full.

Respondent is liable and shall pay to Claimant attorney's fees pursuant to § 75-71-717(a) of the Mississippi Securities Act in the amount of \$71,252.00.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and Respondent's request for attorney's fees, are denied.

### **FEES**

Pursuant to 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.*





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**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 person at the time of the event giving rise to the dispute. Accordingly, Respondent is a party and a member firm.

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 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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 1,350.00

Pre-hearing conferences:

March 10, 2009	1 session
March 30, 2009	1 session
April 30, 2009	1 session

One (1) Pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00

Pre-hearing conference: August 12, 2008 1 session

Ten (10) Hearing sessions @ \$1,125.00/session = \$11,250.00

Hearing Dates:

May 4, 2009	1 session
May 5, 2009	2 sessions
May 6, 2009	2 sessions
May 7, 2009	2 sessions
May 8, 2009	3 sessions

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Total Hearing Session Fees = \$13,725.00

The Panel has assessed \$6,862.50 of the hearing session fees to Claimant.  
The Panel has assessed \$6,862.50 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

<i>J. Maxwell Williams</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Edward B. Scott</i>	-	<i>Public Arbitrator</i>
<i>Robert E. Graves</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

*J. Maxwell Williams*  
 J. Maxwell Williams  
 Public Arbitrator, Presiding Chairperson

05-14-2009  
 Signature Date

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Edward B. Scott

Edward B. Scott  
Public Arbitrator

5-14-09  
Signature Date

Robert E. Graves  
Non-Public Arbitrator

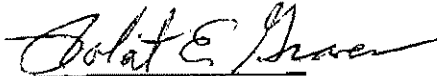
Signature Date

Date of Service (For FINRA Dispute Resolution use only)

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Edward B. Scott  
Public Arbitrator

Signature Date



Robert E. Graves  
Non-Public Arbitrator

5-14-9

Signature Date

Date of Service (For FINRA Dispute Resolution use only)