

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Case Number: 17-01630

Ralph H. Barlow IRA
Jackie R. Boteler IRA
Linda P. Byrd, individually and IRA
Sheila L. Chain, individually and IRA
Thomas E. Dees, individually and IRA
Edgar C. Fellows
Patsy Y. Harveston
Debra A. Hodge, individually and IRA
Lyman E. Johnson, Jr. IRA
Robert H. Landry IRA
Lois B. Landry IRA
Robert and Lois Landry JTWROS
Mel L. McCoy, individually and IRA
Michael L. McDavid IRA
Michael and Laura McDavid, JTWROS
Elaine D. Moss IRA
Hal C. Moss, Jr. IRA
Elaine and Hal Moss JTWROS
Cynthia J. Newsom
Dennis W. Newsom, individually, IRA and Roth IRA
Larry D. Newsom, individually and IRA
Patricia C. Roberts and Billy S. Roberts JTWROS
Patricia C. Roberts, individually and IRA
Sherron G. Sandifer IRA
Connie L. Saxton IRA
Merle Smith, individually and IRA
Brian L. Windham

vs.

Respondents

Hearing Site: Jackson, Mississippi

Morgan Keegan & Company, LLC
Logan Burch Phillips
Raymond, James & Associates, Inc.

Nature of the Dispute: Customers vs. Members and Associated Person
 Members and Associated Person vs. Customers

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Ralph H. Barlow IRA; Jackie R. Boteler IRA; Linda P. Byrd, individually and IRA; Sheila L. Chain, individually and IRA; Thomas E. Dees, individually and IRA; Edgar C. Fellows; Patsy Y. Harveston; Debra A. Hodge, individually and IRA; Lyman E. Johnson, Jr. IRA; Robert H. Landry IRA; Lois B. Landry IRA; Robert and Lois Landry JTWROS; Mel L. McCoy, individually and IRA; Michael L. McDavid IRA; Michael and Laura McDavid, JTWROS; Elaine D. Moss IRA; Hal C. Moss, Jr. IRA; Elaine and Hal Moss JTWROS; Cynthia J. Newsom; Dennis W. Newsom, individually, IRA and Roth IRA; Larry D. Newsom, individually and IRA; Patricia C. Roberts and Billy S. Roberts JTWROS; Patricia C. Roberts, individually and IRA; Sherron G. Sandifer IRA; Connie L. Saxton IRA; Merle Smith, individually and IRA; and Brian L. Windham (hereinafter, these parties are collectively referred to as "Claimants"): Judson M. Lee, Esq., and Robert V. Greenlee, Esq., Judson M. Lee, PLLC, Madison, Mississippi.

For Respondents Morgan Keegan & Company, LLC ("Morgan Keegan"), Logan Burch Phillips ("Phillips"), and Raymond, James & Associates, Inc. ("Raymond James"): Terry R. Weiss, Esq. and Stephanie Wayco, Esq., DLA Piper LLP, Atlanta, Georgia.

Hereinafter, Morgan Keegan, Phillips, and Raymond James are collectively referred to as "Respondents."

CASE INFORMATION

Statement of Claim filed on or about: June 20, 2017.

Amended Statement of Claim dated: February 27, 2018.

Answer to the Counterclaim filed by Claimants on or about: October 13, 2017.

Answer to Amended Answer and Counterclaim filed by Claimants on or about: May 2, 2018.

Jackie Boteler signed the Submission Agreement: June 1, 2017.

Linda P. Byrd; Elaine D. Moss; Hal C. Moss, Jr.; Larry D. Newsom; Lois B. Landry; Michael L. McDavid; Laura A. McDavid; Dennis Newsom; Cynthia J. Newsom; Robert H. Landry Jr.; and Patricia C. Roberts signed the Submission Agreement: June 2, 2017.
Connie L. Saxton; Mel L. McCoy; and Merle A. Smith signed the Submission Agreement: June 3, 2017.

Patsy Harveston signed the Submission Agreement: June 4, 2017.

Sheila Chain and Brian Windham signed the Submission Agreement: June 5, 2017.

Ralph Barlow signed the Submission Agreement: June 6, 2017.

Edgar C. Fellows Jr.; Lyman E. Johnson, Jr.; and Sherron G. Sandifer signed the Submission Agreement: June 7, 2017.

Debra A. Hodge signed the Submission Agreement: June 8, 2017.

Thomas Earl Dees signed the Submission Agreement: June 14, 2017.

Billy S. Roberts signed the Submission Agreement: June 23, 2017.

Statement of Answer and Counterclaim filed by Respondents on or about: September 25, 2017.

Amended Answer and Counterclaim filed by Respondents on or about: April 24, 2018.

Raymond James signed the Submission Agreement: June 28, 2017.

Phillips signed the Submission Agreement: September 26, 2017.

Morgan Keegan signed the Submission Agreement: September 28, 2017.

CASE SUMMARY

Claimants asserted the following causes of action: fraud; unsuitability; breach of contract; negligence; gross negligence; bad faith; violations of industry rules and regulations. The causes of action relate to Claimants' penny stock investments in the following companies: CanWest Petroleum Company and Ridgeway Petroleum, Inc.

Unless specifically admitted in the Statement of Answer and the Amended Statement of Answer and Counterclaim, Respondents denied the allegations made in the Statement of Claim and the Amended Statement of Claim asserted various affirmative defenses.

In the Counterclaim, Respondents asserted a claim for misappropriation of trade secrets under the Mississippi Uniform Trade Secrets Act, Miss. Code Ann. § 75-26-1, *et seq.* and the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836. This cause of action relates to Claimants' alleged misuse of trade secrets in this matter which had been produced in another matter under a confidentiality order.

In the Amended Statement of Claim, the following claimants were removed: Merle Smith, Individually & IRA; Billy S. Roberts (named as "Patricia C. Roberts and Billy S. Roberts JTWROS"); Dennis W. Newsom, Individually, IRA & Roth IRA; Cynthia J. Newsom, Individually; and Larry D. Newsom, Individually & IRA. Additionally, Patricia C. Roberts, Individually & IRA replaced Patricia C. Roberts and Bill S. Roberts JTWROS.

Unless specifically admitted in the Answer to the Counterclaim and the Amended Answer to the Amended Statement of Answer and Counterclaim, Claimants denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim and the Amended Statement of Claim, Claimants requested:

1. Compensatory damages in an amount equal to their penny stock losses, believed to total more than \$800,000.00; alternatively, compensatory damages as determined by the Panel;
2. Punitive damages;
3. Attorneys' fees;
4. Pre-judgment interest from the date of the penny stock purchases;
5. Litigation costs;
6. Forum fees; and
7. All other relief deemed proper by the Panel.

In the Answer and Counterclaim and the Amended Answer and Counterclaim, Respondents requested:

1. Actual damages to be proven at the evidentiary hearing, but believed to be \$500,000.00;
2. Attorneys' fees incurred in bringing this counterclaim;
3. Costs of this hearing;
4. This action be dismissed;
5. All costs and assessments by FINRA be borne by Claimants;
6. An injunction against Claimants and to enjoin all actual or threatened

- misappropriation of Respondents' trade secrets; and
7. Such other further and general relief to which Respondents may be entitled.

In the Answer to Counterclaim and the Amended Answer to Counterclaim, Claimants requested:

1. Respondents' counterclaim be dismissed;
2. All costs and assessments by FINRA be borne by Respondents; and
3. Such other general and specific relief as Claimants have requested and to which they may be entitled.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel determined that the individuals who signed the Submission Agreements in this matter also signed on behalf of their respective IRA, Roth IRA, or JTWROS bringing this action (if applicable).

On November 29, 2017, Respondents filed a Motion to Dismiss pursuant to Rule 12206 of the Code of Arbitration Procedure ("Code"). On December 29, 2017, Claimants filed an opposition to the Motion to Dismiss. On January 4, 2018, Respondents filed a reply in support of the Motion to Dismiss.

On January 17, 2018, the Panel heard oral arguments on Respondents' Motion to Dismiss. By Order of the same date, the Panel denied Respondents' Motion to Dismiss pursuant to Rule 12206 of the Code.

On February 27, 2018, Claimants filed a Motion to Dismiss Certain Claimants and Amend the Statement of Claim ("Motion to Amend"), advising that the following claimants wished to dismiss their claims from this proceeding: Merle Smith, Individually & IRA; Billy S. Roberts (named as "Patricia C. Roberts and Billy S. Roberts JTWROS"); Dennis W. Newsom, Individually, IRA & Roth IRA; Cynthia J. Newsom, Individually & IRA; Larry D. Newsom, Individually & IRA. Claimants further requested that they be allowed to amend their Statement of Claim to substitute "Patricia C. Roberts, Individually & IRA" as claimant in place of "Patricia C. Roberts and Bill S. Roberts JTWROS."

On March 7, 2018, Respondents filed a response to Claimants' Motion to Amend, advising that they had no objection to the dismissal of the claimants named in the motion but advised that they would remain subject to Respondents' counterclaims.

By Order dated March 23, 2018, the Panel granted Claimants' Motion to Amend and the Amended Statement of Claim became a part of the record. Hereinafter, Claimants, minus those who were removed by the Motion to Amend, are referred to as "Remaining Claimants."

On April 13, 2018, the Panel issued a corrected order, advising that the March 23 Order misstated the names of the claimants sought to be dismissed and confirming that

Respondents' "counterclaims against the dismissed claimants shall remain in full force and effect."

The parties present at the hearing 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:

1. Respondents are jointly and severally liable for and shall pay to the following claimants damages in the following sums:
 - a) Ralph H. Barlow IRA:
 - i. Compensatory damages in the sum of \$52,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - b) Jackie R. Boteler IRA:
 - i. Compensatory damages in the sum of \$65,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - c) Linda P. Byrd IRA:
 - i. Compensatory damages in the sum of \$119,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - d) Sheila L. Chain:
 - i. Compensatory damages in the sum of:
 1. \$34,000.00 to her individually;
 2. \$97,000.00 to her IRA; and
 - ii. Punitive damages in the sum of \$10,000.00 to her IRA and individually.
 - e) Thomas E. Dees IRA:
 - i. Compensatory damages in the sum of \$39,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - f) Edgar C. Fellows:
 - i. Compensatory damages in the sum of \$43,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - g) Patsy Y. Harveston:
 - i. Compensatory damages in the sum of \$23,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - h) Debra A. Hodge, individually:
 - i. Compensatory damages in the sum of \$6,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - i) Lyman E. Johnson, Jr. IRA:
 - i. Compensatory damages in the sum of \$87,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - j) Robert and Lois Landry JTWROS:
 - i. Compensatory damages in the sum of \$16,000.00.
 - k) Robert H. Landry IRA:
 - i. Compensatory damages in the sum of \$7,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.

- l) Lois B. Landry IRA;
 - i. Compensatory damages in the sum of \$7,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - m) Mel L. McCoy, individually:
 - i. Compensatory damages in the sum of \$75,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - n) Michael L. McDavid IRA:
 - i. Compensatory damages in the sum of \$91,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - o) Michael and Laura McDavid JTWROS:
 - i. Compensatory damages in the sum of \$47,000.00.
 - ii. Punitive damages in the sum of \$10,000.00.
 - p) Elaine and Hal Moss JTWROS:
 - i. Compensatory damages in the sum of \$21,000.00.
 - q) Elaine D. Moss IRA:
 - i. Compensatory damages in the sum of \$22,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - r) Hal C. Moss, Jr. IRA:
 - i. Compensatory damages in the sum of \$49,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - s) Patricia C. Roberts:
 - i. Compensatory damages in the sum of:
 - 1. \$20,000.00 to her individually;
 - 2. \$38,000.00 to her IRA; and
 - ii. Punitive damages in the sum of \$10,000.00 to her IRA and individually.
 - t) Sherron G. Sandifer IRA:
 - i. Compensatory damages in the sum of \$44,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - u) Connie L. Saxton IRA:
 - i. Compensatory damages in the sum of \$47,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
 - v) Brian L. Windham:
 - i. Compensatory damages in the sum of \$74,000.00; and
 - ii. Punitive damages in the sum of \$10,000.00.
2. The punitive damages sums noted above (which total \$200,000.00) are pursuant to a finding of fraud under Miss. Code Ann. § 11-1-65.
 3. Respondents are jointly and severally liable for and shall pay to Remaining Claimants the sum of \$422,000.00 in attorneys' fees consistent with Mississippi law as stated by the Mississippi Supreme Court in *Greenlee v. Mitchell*, 607 So.2d 97, 108 (Miss. 1992).
 4. Respondents are jointly and severally liable for and shall pay to Remaining Claimants the sum of \$14,000.00 in costs.
 5. Respondents are jointly and severally liable for and shall pay to Remaining Claimants the sum of \$31,003.17 for expert witness fees.

6. The requests for compensatory damages by Linda P. Byrd, individually; Thomas E. Dees, individually; Debra A. Hodge IRA; and Mel L. McCoy IRA are denied.
7. Respondents' Counterclaim is denied in its entirety.
8. Any and all claims for relief not specifically addressed herein, including interest, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing Fee	=\$ 1,725.00
Counterclaim Filing Fee	=\$ 2,125.00

**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, Morgan Keegan is assessed the following:

Member Surcharge	=\$ 2,475.00
Member Process Fee	=\$ 5,075.00

Accordingly, as a party, Raymond James is assessed the following:

Member Surcharge	=\$ 2,475.00
Member Process Fee	=\$ 5,075.00

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00/decision	=\$200.00
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Respondents submitted 1 discovery-related motion

Total Discovery-Related Motion Fees	=\$200.00
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The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to Respondents.

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:

Four (4) pre-hearing sessions with a single arbitrator @ \$450.00/session = \$1,800.00

Pre-hearing conferences:	April 18, 2018	1 session
	June 11, 2018	2 sessions
	July 31, 2018	1 session

Three (3) pre-hearing sessions with the Panel @ \$1,300.00/session = \$3,900.00

Pre-hearing conferences:	November 21, 2017	1 session
	January 17, 2018	1 session
	August 28, 2018	1 session

Thirty-two (32) hearing sessions @ \$1,300.00/session = \$41,600.00

Hearing Dates:	August 13, 2018	2 sessions
	August 14, 2018	2 sessions
	August 15, 2018	2 sessions
	August 16, 2018	2 sessions
	August 17, 2018	1 session
	August 20, 2018	2 sessions
	August 21, 2018	2 sessions
	August 22, 2018	2 sessions
	August 23, 2018	1 session
	December 17, 2018	2 sessions
	December 18, 2018	2 sessions
	December 19, 2018	2 sessions
	December 20, 2018	2 sessions
	March 5, 2019	2 sessions
	March 6, 2019	2 sessions
	March 7, 2019	2 sessions
	March 8, 2019	2 sessions

Total Hearing Session Fees = \$47,300.00

The Panel has assessed \$1,750.00 of the hearing session fees to Remaining Claimants.

The Panel has assessed \$45,550.00 of the hearing session fees jointly and severally to Respondents.


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

ARBITRATION PANEL

Theodore Haynes	-	Public Arbitrator, Presiding Chairperson
Mark A. Myers	-	Public Arbitrator
James L. Warren, III	-	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



Theodore Haynes
Public Arbitrator, Presiding Chairperson



Signature Date

Mark A. Myers
Public Arbitrator

Signature Date

James L. Warren, III
Public Arbitrator

Signature Date

May 3, 2019
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

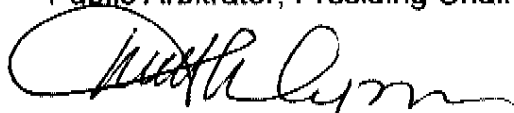
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Mark A. Myers	-	Public Arbitrator
James L. Warren, III	-	Public Arbitrator

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Concurring Arbitrators' Signatures

Theodore Haynes
Public Arbitrator, Presiding Chairperson

Signature Date



Mark A. Myers
Public Arbitrator

5-3-19
Signature Date

James L. Warren, III
Public Arbitrator

Signature Date

May 3, 2019
Date of Service (For FINRA Office of Dispute Resolution office use only)

ARBITRATION PANEL

Theodore Haynes	-	Public Arbitrator, Presiding Chairperson
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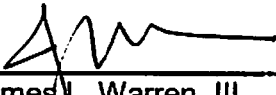
Concurring Arbitrators' Signatures

Theodore Haynes
Public Arbitrator, Presiding Chairperson

Signature Date

Mark A. Myers
Public Arbitrator

Signature Date



James L. Warren, III
Public Arbitrator

05/03/19

Signature Date

May 3, 2019

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