

Morgan Keegan Fund Troubles Hit Employees

By Andy Meek

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Memphis Daily News - As the lawsuits and arbitration claims keep piling up on behalf of investors who lost millions of dollars in several Regions Morgan Keegan mutual funds last year, another group of investors is prepping for legal action.

The list of people who got caught up in the mutual fund debacle unfolding at the Memphis-based brokerage firm has included retirees, institutional investors, the well-to-do and small-business owners, to give but a few examples. The latest addition to that list: Morgan Keegan employees themselves.

Over the past several months, scores of lawyers from around the country have sought out and researched claims from one investor after another, nearly all of whom have told variations of the same story.

Whether it was their retirement nest egg, rainy-day savings or large chunks of their net worth, much of it that was tucked away in the RMK funds seemed to evaporate overnight.

Now, those same lawyers are hearing from clients who were exposed to the RMK funds in a different way. Some of the affected mutual funds were part of the Morgan Keegan employees' pension plans, meaning that a number of employees have now found themselves in the same boat as the unlucky investors.

A figure as high as \$10 million has been mentioned as the amount of employee money invested in the group of RMK funds that sustained massive losses over the course of 2007. One of the reasons for the large losses is the funds' over-concentration of investments in a small number of industries, according to various lawsuits that have since been filed in West Tennessee.

"We've been speaking to employees of Morgan Keegan who may have (Employee Retirement Income Security Act) claims against Morgan Keegan for the handling of their retirement funds," said attorney Ryan Bakhtiari, a partner at Aidikoff, Uhl & Bakhtiari in Beverly Hills, Calif.

More disclosure needed?

The Employee Retirement Income Security Act of 1974, or ERISA, is a federal law that sets minimum standards for pension plan management in the private sector. **Bakhtiari said his firm is considering filing a class action suit representing Morgan Keegan employees who lost money in their pension plans because of the RMK exposure.** His firm is not the only one. A cursory check revealed at least a handful of other law firms from around the country who've announced similar investigations.

"The company owes the employees a fiduciary duty to manage the plan in a prudent manner, the same way the company owes a fiduciary duty to customers

of Morgan Keegan," Bakhtiari said. "And as part of that fiduciary duty, the company would have to tell the truth to its employees, to not make any misstatements or hold back any material information in connection with the investments in the plan.

"We believe that Morgan Keegan didn't tell people about the true nature of the risks of these particular funds."

That's a claim individual investors are continuing to lodge against the brokerage firm, where the mutual funds in question are overseen by Jim Kelsoe. He's a once-high-flying money manager who's responsible for about \$3 billion worth of assets at Morgan Keegan.

More suits coming

The credit crunch that knocked the economy back on its heels starting last year did the same to several of the funds Kelsoe manages. One of those mutual funds, the RMK Select High Income Fund, lost more than 60 percent of its value in 2007. The fund already is down 13 percent this year.

Four separate lawsuits are pending in the U.S. District Court for the Western District of Tennessee. They were filed on behalf of investors from across the country whose portfolios took varying degrees of loss in the RMK funds.

A similar complaint also was filed recently in Shelby County Chancery Court. Memphis attorney Scott Beall, representing three local-area family trusts, filed suit Tuesday against Regions Financial Corp., the parent company of Morgan Keegan, according to The Daily News Online, www.memphisdailynews.com.

Also named in the suit is David Franks, a senior vice president and regional trust manager for Regions in Memphis. The basic argument in the Chancery suit is that the family trusts originally had been managed by Union Planters Bank, which was acquired by Regions in 2004.

Within months of Regions' taking over management of the trusts, according to the suit, the bank began selling off some of the trusts' existing assets to generate cash that was then used to buy into the volatile RMK funds. Those purchases were made for the benefit of Regions rather than for the trust beneficiaries, according to the suit.

A Morgan Keegan spokesman declined to comment on the mutual fund situation. On a conference call with analysts last month, Regions' chief financial officer Al Yother said the bank had made a recent investment in two of the RMK funds to provide some liquidity to support them.