STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF	)	
	)	
MORGAN KEEGAN and COMPANY, INC.	)	ADMINISTRATIVE ORDER
	)	NO. SC-2009-0020
RESPONDENT	)	

ORDER TO SHOW CAUSE

The Alabama Securities Commission ("Commission"), having the authority to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act, upon due consideration of the subject matter hereof, has determined as follows:

RESPONDENT

1. MORGAN KEEGAN and COMPANY, INC., ("Morgan Keegan") is a registered securities dealer in the State of Alabama pursuant to Section 8-6-3 Code of Alabama 1975, with its home office located at 50 Front Street, Morgan Keegan Tower, Memphis, Tennessee, 38103-9980.

2. MORGAN KEEGAN and COMPANY, INC., is also a federally registered Investment Advisor conducting business in the state of Alabama.

3. MORGAN KEEGAN and COMPANY, INC., is a wholly owned affiliate/subsidiary of Regions Financial Corporation, a federal holding company headquartered in Birmingham, Alabama.

STATEMENT OF FACTS

4. Auction Rate Securities ("ARS") as a general term refers to long-term debt or equity instruments tied to short term interest rates that are reset periodically through an auction process. The ARS market is primarily comprised of three types of securities: (1) municipal ARS, which are bonds issued by cities, counties, and public entities and generally backed by insurance; (2) student loan ARS, which are asset-backed securities, with ratings based upon the credit quality of

an underlying pool of student loans; and (3) auction preferred stock, which are perpetual preferred stock of closed-end funds. An ARS auction is regarded as a "fail" or "failed auction" if there is not a buyer available for every ARS being offered for sale at the auction. In the event of a failed auction, the investors that wished to sell their ARS are unable to do so and would continue to hold the ARS and wait until the next successful auction to liquidate their positions.

5. Each ARS would select one or more broker-dealers to underwrite an offering. Prior to the auction, broker-dealers accept orders from customers specifying the lowest interest rate or dividend the customer is willing to accept. The broker-dealer then submits these 'bids' to the auction agent who runs the auction. The auction then clears at the lowest rate bid that was sufficient to cover the ARS up for sale in that auction. That interest rate of dividend then applies to those ARS until the next auction date.

6. Morgan Keegan began selling ARS underwritten by other broker-dealers in 1998. In 2002, Morgan Keegan became an underwriter of ARS dealing primarily in tax-free, AAA-rated ARS issued by municipalities. By March of 2008, Morgan Keegan had underwritten at least sixty ARS underwritings representing a total par value of approximately 1.1 billion dollars. Morgan Keegan also resold ARS, underwritten by other broker-dealers, to its customers aggregating an approximate par value of another 1.1 billion dollars.

7. From 2002 until February of 2008, Morgan Keegan, while serving as a lead broker-dealer, managed the auction process for those ARS it had underwritten, routinely placing bids for its own account to buy ARS offered for sale, that had not been bid by other customers, in order to ensure that the issues cleared and the auctions would not fail. The majority of the auctions, in which Morgan Keegan served as lead underwriter during this time period, would have failed but for Morgan Keegan's participation. During the fall of 2007 and winter of 2008, RESPONDENT had knowledge that the auction markets were not functioning properly and were at increased risk for failure. During that time period, MORGAN KEEGAN knew that significant numbers of buyers had been exiting the market and the continued success of the auctions was reliant upon the lead and co-lead broker-dealers, such as MORGAN KEEGAN, making increased support bids. These support bids had the effect of artificially propping up the market and creating the

illusion that the auction rate market was functioning as normal. However, during that time, Respondent continued to market and sell ARS without informing customers of the heightened risks associated with holding these securities.

8. Beginning on or about February 12, 2008, the market experienced widespread failed auctions (the "2008 Auctions Failures"). In the face of widespread ARS auction failures, on February 27, 2008, Morgan Keegan declined to place bids in most of the auctions for which it served as a lead broker-dealer where the bids of other participants in the auction were insufficient to cover all sell orders. The decision left many of Respondent's customers stuck holding illiquid ARS. As of October 14, 2008, Alabama retail customers of Morgan Keegan held approximately $36,490,000.00 dollars of ARS.

9. ARS were routinely marketed by Morgan Keegan to its customers as cash alternatives which could be easily liquidated at the customer's demand on the next auction date. As a result, many Morgan Keegan customers, requiring short-term liquidity, placed money in ARS underwritten and marketed by Morgan Keegan. Morgan Keegan failed to advise its customers that money invested in ARS, upon failure of the auction, could become illiquid. Instead Respondent engaged in a concerted effort to market ARS underwritten and/or held by Morgan Keegan towards its retail customers' accounts without advising the retail customers of any of the potential risks associated with a failed auction or market illiquidity.

10. Information received by the Commission staff revealed that an Alabama resident who was a customer of Regions Bank, the parent company of Morgan Keegan, was referred by his Regions banker to Morgan Keegan Securities for the purpose of investing in Jefferson County Sewer ARS. The Alabama resident had sold a home in which significant proceeds were currently held in cash. The resident expressed concern that the proceeds were being held in a Regions checking account with only one third of the money being protected by FDIC insurance. The Regions bank /Morgan Keegan customer expressed a desire to temporarily "place our assets in a more secure investment until we could locate more suitable housing." Complainant stated that Morgan Keegan upon being referred by the Regions banker called the Alabama customer and suggested that they place the funds in the "highly recommended short term (35 day) auction rate Jefferson County sewer bonds which MORGAN KEEGAN could manage as an alternative

to letting the money sit in our checking account." The Alabama customer, based on the recommendation of their banker and the Morgan Keegan representative, gave verbal consent to transfer the money to Morgan Keegan in order to effect the transaction in the ARS. When the Alabama customer attempted to liquidate their position in order to close on a contract to construct a new home, they were informed that the auction for the ARS which Morgan Keegan had purchased for their account had failed and that the ARS was illiquid.

11. Another Alabama resident invested $400,000 in ARS offered by Morgan Keegan. This Alabama resident, a retiree living off his investment income, was referred to the Montgomery branch office of Morgan Keegan by a Regions bank officer with whom he had an existing banking relationship. When discussing the prospect of investing in ARS, the Alabama resident was assured by both representatives of Morgan Keegan and Regions Bank that ARS were "safe, composed of highly rated bonds, were as 'good as cash' and that I could get my money any time I needed it." Although able to liquidate a portion of his ARS holdings prior to the February 2008 auction failures the Alabama resident was informed by Morgan Keegan that the remaining funds amounting to $100,000 had been invested in the Jefferson County Sewer Bond ARS and were now "illiquid holdings."

12. Morgan Keegan brokers routinely used terms such as, "good as cash," "guaranteed," "cash alternatives," and "fully liquid," etc., when describing ARS to their customers. It was not until March 20, 2008, before Morgan Keegan produced an "enhanced disclosure" policy in which it required potential ARS purchasers to acknowledge that they had been informed that ARS were currently failing at auction and that they could be illiquid in the long term. This "enhanced disclosure" policy was implemented five weeks after ARS auctions began failing on a widespread basis.

13. On or about April of 2009, after significant discussions with State and Federal regulators Morgan Keegan instituted a policy to purchase back certain proprietary ARS underwritten by Morgan Keegan. As of the date of this Order, Morgan Keegan has refused to purchase back any Jefferson County Sewer ARS, or any ARS in which Morgan Keegan was the seller but not the underwriter, or lead or co-lead broker-dealer.

CONCLUSIONS OF LAW

14. The Commission has jurisdiction over this matter pursuant to Section 8-6-3, 8-6-4, and 8-6-17 Code of Alabama 1975, the Alabama Securities Act. The Act authorizes the Commission to regulate: 1) the offers, sales, and purchases of securities; 2) those individuals and entities offering and/or selling securities; and 3) those individuals and entities transacting business as broker dealers and/or investment advisers within the Alabama.

A. Respondent Engaged in Dishonest and Unethical Practices.

15. As described in the Statement of Facts section above, Respondent inappropriately marketed and sold ARS without adequately informing their customers of the increased risks of illiquidity associated with the product for the time period August 2007 through March 2008.

16. Morgan Keegan failed to disclose that the support bids by Morgan Keegan and others had the effect of artificially propping up the market and creating the illusion that the auction rate market was functioning as a true auction.

17. As a result, Morgan Keegan violated Section 8-6-3 (j) (7), Code of Alabama 1975, the Alabama Securities Act.

B. Respondent Failed to Supervise Their Agents.

18. As described in the Statement of Facts section above, Respondent failed to properly supervise their agents with respect to the marketing and sale of ARS from August 2007 through March 2008.

19. As a result, Morgan Keegan violated Section 8-6-3 (j) (10), Code of Alabama 1975, the Alabama Securities Act.

C. Respondent Failed to Disclose Material Facts to Their Customers

20. As described in the Statement of Facts section above, Morgan Keegan failed to disclose the risks to liquidity of the ARS. Specifically, that if the auctions supporting the ARS failed, the ARS holdings would become illiquid.

21. As described in the Statement of Facts section above, Morgan Keegan failed to disclose that the ARS issues were at risk as it relates to the underlying performance of the issuer of the bonds.

22. As a result, Morgan Keegan violated Section 8-6-17(a) (2), Code of Alabama 1975, the Alabama Securities Act.

D. Respondent Engaged in an Act, Practice or Course of Business Which Operated as a Fraud Upon a Person.

23. As described in the Statement of Facts section above, Morgan Keegan routinely made bids at auction in order to artificially support the markets in ARS issues underwritten by Respondent. Respondent did not disclose the danger of auction failure and continued to market ARS as highly liquid, principally sound short term investments.

24. As a result, Respondent violated Section 8-6-17(a) (3), Code of Alabama 1975, the Alabama Securities Act.

ACCORDINGLY, IT IS HEREBY ORDERED that within 28 days of receipt of this Order:

RESPONDENT SHOW CAUSE why its registration as a broker dealer should not be suspended or revoked in the state of Alabama.

RESPONDENT SHOW CAUSE why the Commission should not file action to require RESPONDENT to disgorge all fees, commissions or other pecuniary gains relating to the ARS transactions to Alabama residents.

RESPONDENT SHOW CAUSE why the Commission should not enter an Order or file an action to require RESPONDENT to repurchase all ARS sold to Alabama residents by RESPONDENTS.

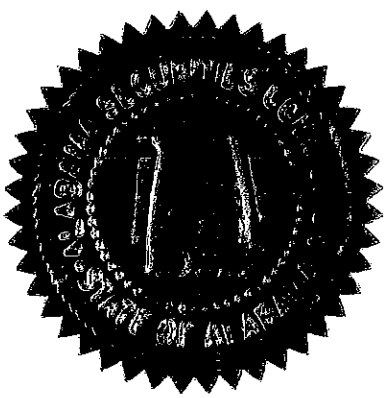
RESPONDENT SHOW CAUSE why the Commission should not assess respondent for investigative costs and penalties.

RESPONDENT SHOW CAUSE why the Commission should not issue an Order Permanently Enjoining Respondent and its agents and employees from engaging in violations of § 8-6-17, Code of Alabama 1975, and Rules attended thereto.

This Order is appropriate in the public interest for the protection of investors and consistent with the purposes of the Alabama Securities Act.

This Order does not prevent the Commission from seeking such other civil or criminal remedies that may be available to it under the Alabama Securities Act.

Entered at Montgomery, AL, this 21st day of July, 2009.



ALABAMA SECURITIES COMMISSION
770 Washington Avenue, Suite 570
Montgomery, AL 36130-4700
(334) 242-2984
BY:

JOSEPH P. BORG
Director