





1 appeal under ORS 59.295, ORS 59.305, and ORS Chapter 183, with respect to this Order to  
2 Cease and Desist, Order Assessing Civil Penalty and Consent to Entry of Order (“Consent  
3 Order”); and

4 WHEREAS, MKC, MAM, and the Individual Respondent admit the jurisdictional  
5 allegations herein, and MKC and MAM admit to the allegations in paragraphs 41 through 43 of  
6 Section II, relating to the maintenance of books and records, but MKC and MAM, except as  
7 admitted above, otherwise neither admit nor deny any of the findings of fact, allegations,  
8 assertions or conclusions of law that have been made herein in this proceeding;

9 NOW, THEREFORE, the Director of the Department of Consumer and Business  
10 Services (“Director”), as administrator of the Oregon Securities Law, hereby enters this Consent  
11 Order:

12 I.

13 **RESPONDENTS AND PERSONS/ENTITIES**

14 **AFFILIATED WITH THE RESPONDENTS**

15 1. Respondent **Morgan Keegan & Company, Inc.** (“MKC”) (CRD No. 4161), a  
16 Tennessee corporation, is a broker-dealer licensed in Oregon and registered with the SEC, as  
17 well as a federally registered investment adviser with the SEC. At all relevant times MKC was  
18 properly licensed and notice-filed under the Oregon Securities Law. MKC is a wholly owned  
19 subsidiary of Regions Financial Corporation (“RFC”) which is headquartered in Birmingham,  
20 Alabama. MKC’s primary business address is 50 Front Street, Morgan Keegan Tower,  
21 Memphis, Tennessee 38103-9980.

22 2. Respondent **Morgan Asset Management, Inc.** (“MAM”), a Tennessee corporation,  
23 is a federally registered investment adviser with the SEC (CRD No. 111715). MAM is a wholly  
24 owned subsidiary of MK Holding, Inc., a wholly owned subsidiary of RFC. MAM is  
25 headquartered in Alabama with a principal business address of 1901 6th Avenue North, 4th  
26 Floor, Birmingham, Alabama 35203.





1           7.    The Funds were created and managed by Kelsoe, MAM Senior portfolio manager.  
2 Kelsoe was also principally responsible for the purchase and sale of all of the holdings in the  
3 Funds.

4           8.    When WMS ceased reporting and dropped its coverage of the Select Intermediate  
5 Bond Fund and Select High Income Fund in July 2007, it failed to announce the drop in coverage  
6 in writing until November, 2007. WMS did not publish a withdrawal of its prior analysis or  
7 recommend the Funds' replacement.

8           9.    On January 19, 2007, WMS announced it was reclassifying the Intermediate Bond  
9 Fund on the Select List from "Fixed Income" to "Non-Traditional Fixed Income." Meanwhile,  
10 WMS profiles for the Intermediate Bond Fund continued to label it as the "Intermediate  
11 Gov't/Corp Bond."

12          10.   Certain of the Funds' annual, semi-annual, and quarterly reports filed with the SEC  
13 did not adequately disclose the risks of subordinated tranches and the quantity of subordinated  
14 tranches held within the Funds.

15          11.   MAM produced quarterly glossies for all seven Funds. In the glossies, MAM did not  
16 adequately describe the risks of owning the lower tranches of structured debt instruments or the  
17 quantity of such holdings within the Funds.

18          12.   MKC, through WMS, produced quarterly Fund Profiles for the Intermediate Bond  
19 Fund, the Select High Income Fund, and the Short Term Bond Fund that did not adequately  
20 describe the risks of owning the lower tranches of structured debt instruments or the quantity of  
21 such holdings within the Funds.

22          13.   In SEC filings and state notice filings of March and June 2007 involving the Funds,  
23 \$400 million of what MAM characterized as corporate bonds and preferred stocks were, in fact,  
24 the lower, subordinated tranches of asset-backed structured debt instruments. MAM eventually  
25 reclassified certain of these structured debt instruments in the March 2008 Form N-Q Holdings  
26 Report for the three open-end funds.



1 14. In SEC filings, MAM compared the four closed-end funds and the Select High  
2 Income Fund (collectively the “RMK high-yield funds”), which contained approximately two-  
3 thirds structured debt instruments, to the Lehman Brothers U.S. High Yield Index (“Lehman Ba  
4 Index”). The Lehman Ba Index is not directly comparable to the RMK high-yield funds given  
5 the fact that the Lehman Ba Index contained only corporate bonds and no structured debt  
6 instruments.

7 15. Certain marketing materials and reports minimized the risks and volatility associated  
8 with investing in funds largely comprised of structured debt instruments. In the June 30, 2007  
9 glossy, and in previous quarterly glossies created by MAM, MAM and MKC marketed the  
10 Intermediate Bond Fund as a fund appropriate for “Capital Preservation & Income.” MAM later  
11 revised the Intermediate Bond Fund glossy in September 2007 by removing the caption “Capital  
12 Preservation & Income” and replacing it with “Income & Growth,” and by removing the word  
13 “stability,” which had previously been used to describe the fund.

14 16. The Intermediate Bond Fund glossies dated June 30, 2007, and September 30, 2007,  
15 stated that the Intermediate Bond Fund “...does not invest in speculative derivatives.” However,  
16 the Intermediate Bond Fund did use derivatives, including interest-only strips, and collateralized  
17 debt obligations (CDOs), which are derived from the mezzanine and lower tranches of other debt  
18 securities.

19 17. Respondent MKC through WMS labeled the Intermediate Bond Fund with varying  
20 names. None of the three labels “Taxable Fixed Income”, “Enhanced Low-Correlation” and  
21 “Intermediate Gov’t/Corp Bond” used by MKC adequately portrayed the nature of the  
22 Intermediate Bond Fund, of which approximately two-thirds of the portfolio was invested in the  
23 mezzanine or lower subordinated tranches of structured debt instruments. The label “Gov’t/Corp  
24 Bond,” which first appeared on the December 31, 2006 profile sheet, was never changed after  
25 that date.

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1        **A. SUPERVISION AND SUPERVISORY DUE DILIGENCE**

2        18.     During the period January 1, 2007 through July 31, 2007, preceding the collapse of  
3 the subprime market, MAM made 262 downward price adjustments for the purpose of adjusting  
4 the net asset value of the Funds. In some instances, MAM’s communications led MKC, through  
5 its sales force, to actively discourage investors from selling the Funds—even while fund prices  
6 continued to decline—by advising investors to “hold the course.” Some members of MKC,  
7 MAM, and their management personnel continued during this period to advise FAs and investors  
8 to buy the Funds through, *inter alia*, statements that characterized the decline as “a buying  
9 opportunity.”

10     19.     MKC and MAM failed to adequately supervise the flow of information to the MKC  
11 sales force concerning the Funds. For example, in conference calls with the sales force, the  
12 senior portfolio manager for the Funds cited sub-prime fears and liquidity as the primary factors  
13 for a decline in the net asset value of the Funds without fully explaining the market impact on  
14 certain securities held by the Funds.

15     20.     WMS did not complete a thorough annual due diligence report of the open-end funds  
16 and the management of the open-end funds in 2007. A fixed income analyst for WMS,  
17 attempted to complete an annual due diligence review of the open-end funds and the  
18 management of the open-end funds in the summer of 2007, but was unsuccessful due to Kelsoe’s  
19 and MAM’s failure to provide sufficient information and Kelsoe’s failure to be available for a  
20 meeting during normal operating hours. Subsequently, WMS failed to notify the MKC sales  
21 force of WMS’s failure to complete the annual on-site due diligence review. An incomplete draft  
22 of WMS’s annual due diligence report for internal use only was submitted by the WMS analyst,  
23 but it was neither completed nor released to the sales force.

24     21.     On July 31, 2007, WMS dropped coverage of all proprietary products, which  
25 included the funds for which WMS could not produce a thorough report. This fact was not  
26 disclosed in writing to the sales force until November 2007.



1       22.     Based on WMS’s one page, one paragraph report of the August 18, 2006 on-site due  
2 diligence review, the due diligence visits by the WMS fixed income analysts were not “detailed,  
3 thorough, and exhaustive,” as advertised by MKC. There are two WMS profiles of the  
4 Intermediate Bond Fund dated September 30, 2006. The sections titled “investment philosophy”  
5 in the profile sheets contain substantial differences. The first WMS profile for the Intermediate  
6 Bond Fund, based on the information for the quarter ending September 30, 2006, is titled  
7 “Taxable Fixed Income.” The first profile, much like previous quarterly profiles, does not refer  
8 to any of the holdings as “inferior tranches.” Neither does it mention potential lack of demand  
9 and lack of liquidity. Further, it states: “The fund does not use derivatives or leverage.”

10       23.     WMS’s changing of the Intermediate Bond Fund profile label indicated WMS’s  
11 inability and lack of supervision in the creation of these marketing pieces to accurately  
12 categorize the Intermediate Bond Fund. Within one quarter, WMS identified the Intermediate  
13 Bond Fund three different ways:

14             September 30, 2006 - Taxable Fixed Income

15             September 30, 2006 - Enhanced Low Correlations Fixed Income

16             December 31, 2006 - Intermediate Gov’t/Corp Bond

17       24.     The “Gov’t/Corp Bond” label implied that the Intermediate Bond Fund holdings were  
18 predominately government and corporate bonds carrying a certain degree of safety. This  
19 improper labeling indicates a failure to conduct proper due diligence, a duty of MKC.

20       25.     In addition, all profiles for the Intermediate Bond Fund from March 31, 2006, through  
21 June 30, 2007, stated that Kelsoe was joined by Rip Mecherle (“Mecherle”) as assistant portfolio  
22 manager. Mecherle left MAM in 2004. The failure to detect the errors in promotional materials  
23 relating to management does not reflect the “detailed, thorough, and exhaustive due diligence”  
24 claimed by MKC in its sales and promotional material distributed to investors.

25       **B. SUITABILITY OF RECOMMENDATIONS**

26       26.     Respondent MAM indicated that risks and volatility were minimized in the



1 Intermediate Bond Fund portfolio. In the June 30, 2007 glossy, and previous quarterly glossies  
2 created by MAM, Respondents marketed the Intermediate Bond Fund’s broad diversification of  
3 asset classes three times on the first page of each of the glossies, when in fact, approximately  
4 two-thirds of the Intermediate Bond Fund portfolio was composed of structured debt  
5 instruments which included risky assets. The four closed-end funds also advertised  
6 diversification among asset classes, despite the similarities in asset classes as set forth in Section  
7 C below.

8 27. Furthermore, the glossies emphasized the Select High Income Fund’s net asset value  
9 as being less volatile than typical high-yield funds. The glossies failed to state that a reason for  
10 any lower volatility was that the structured debt instruments within the Select High Income Fund  
11 were not actively traded, and that the daily fair value adjustments of certain holdings were  
12 imprecise in a market that became illiquid.

13 28. In certain cases, MKC and its sales force failed to obtain adequate suitability  
14 information regarding risk tolerance that was necessary to determine suitability for using the  
15 Funds for regular brokerage account customers. New account forms for regular brokerage  
16 accounts provided a menu of four investment objectives to choose from: Growth, Income,  
17 Speculation, and Tax-Advantaged. Risk tolerance was not addressed by the form, was not noted  
18 by the sales force, whose records were examined during the investigation, and may not have  
19 been taken into consideration when the sales force made its recommendations.

20 29. In at least one instance, a salesperson of MKC provided a customer with a self-made  
21 chart assuming the hypothetical growth of \$100,000 over five years, and comparing the rate of  
22 return on CDs to the return on the Intermediate Bond Fund. The chart failed to address any risks  
23 of investing in the fund, save the caption “Not FDIC Insured.”

24 **C. ADVERTISEMENTS BY RESPONDENTS**

25 30. Marketing glossies prepared by MAM for the Intermediate Bond Fund and Select  
26 High Income Fund contained allocation pie charts dividing the categories of holdings by



1 percentages of the total portfolio. Between June 2004 and March 2005, the pie charts for both  
2 funds changed significantly: MAM divided the category originally titled “asset-backed  
3 securities” into multiple categories. These changes indicated that the holdings of these funds  
4 were more diversified than they actually were because the majority of the portfolios continued to  
5 be invested in asset-backed securities.

6 a. In the Intermediate Bond Fund glossy dated June 30, 2004, the Asset-Backed  
7 Securities (ABS) and Commercial Mortgage Backed Securities (CMBS) are listed under a single  
8 heading comprising 70 percent of the portfolio.

9 b. In the Intermediate Bond Fund glossy dated December 31, 2004, the pie chart was  
10 revised and the ABS and CMBS are shown as separate categories, but together still comprise 76  
11 percent of the portfolio.

12 c. The Intermediate Bond Fund glossies dated March 31, 2005, show the ABS  
13 category further split into six categories that, together with CMBS, comprised 77 percent of the  
14 portfolio. Those six categories were: “Manufactured Housing Loans,” “Home Equity Loans,”  
15 “Franchise Loans,” “Collateralized Debt Obligations,” “Collateralized Equipment Leases,” and  
16 “Other.” Subsequent glossies continue to show the ABS split into six categories.

17 d. In the Select High Income Fund glossy dated June 30, 2004, the ABS and CMBS  
18 are listed under a single heading comprising 60 percent of the portfolio.

19 e. In the Select High Income Fund glossy dated December 31, 2004, the pie chart  
20 was revised and the ABS and CMBS are shown as separate categories, but together still comprise  
21 59 percent of the portfolio.

22 f. The Select High Income Fund glossy dated March 31, 2005, shows the ABS  
23 category further split into six categories which, together with CMBS, comprised 64 percent of  
24 the portfolio. Those six categories were: “Collateralized Debt Obligations,” “Manufactured  
25 Housing Loans,” “Collateralized Equipment Leases,” “Franchise Loans,” “Home Equity Loans,”  
26 and “Other.” Subsequent glossies continue to show the ABS split into six categories.



1 31. The pie charts in the glossies for the High Income Fund were also changed in a  
2 similar manner between June 2004 and March 2005.

3 32. Similar changes were also made to pie charts in glossies for the Advantage Income  
4 Fund and the Strategic Income Fund between December 2004 and March 2005.

5 33. Respondent MKC used different index comparisons in the Select High Income Fund  
6 “Profile” sheets produced by WMS. These profile sheets compared the Select High Income Fund  
7 to the Credit Suisse First Boston High Yield Index, as well as the Merrill Lynch US High Yield  
8 Cash BB Index. These two indices only contain corporate bonds and no structured debt  
9 instruments. The Select High Income Fund contained substantially different risks than the  
10 portfolios within either of the two indices, and therefore these benchmarks were not directly  
11 comparable.

12 **D. REQUIRED EXAMINATIONS OF CUSTOMER ACCOUNTS TO DETECT AND**  
13 **PREVENT IRREGULARITIES OR ABUSES**

14 34. While the models for WMS managed accounts limited the use of the Intermediate  
15 Bond Fund to certain percentages, usually no more than 15 percent of any client’s portfolio,  
16 there was no such limitation for non-managed accounts. Additionally, no guidance was provided  
17 to the FAs regarding limiting concentrations of the Intermediate Bond Fund in non-managed  
18 accounts. As a result, certain customer accounts contained more than a 20 percent concentration  
19 of the Intermediate Bond Fund.

20 35. The four closed-end funds, the Select High Income Fund and the Intermediate Bond  
21 Fund were all highly correlated. However, MKC provided limited guidance to the FAs regarding  
22 limiting concentrations of combinations of the Funds in non-managed accounts.

23 36. Up until six months before the collapse of the fund, WMS classified the Intermediate  
24 Bond Fund as “Core Plus” in the Fixed Income section of the Select List. At that time it was  
25 reclassified as “Alternative Fixed Income” in the Non-Traditional section of the Select List. Yet  
26 MKC’s concentration for many of its non-WMS managed accounts continued to be above 20



1 percent which could indicate its use as a core holding. An e-mail chain from Gary S. Stringer of  
2 WMS states as follows:

3 **From:** Stringer Gary [Gary.Stringer@morgankeegan.com]  
4 **Sent:** Tuesday, May 15, 2007 4:10 PM  
5 **To:** Hennek, Roderick  
6 **Subject:** Re: RMK Intermediate Bond Fund

7 Rod,

8 I did notice that you didn't cc anyone on your email, and I appreciate that. We've  
9 always had good, candid conversation.

10 You have a good point in that we have some low correlation equity strategies on  
11 the Traditional side. What worries me about this bond fund is the tracking error  
12 and the potential risks associated with all that asset-backed exposure. **Mr & Mrs**  
13 **Jones don't expect that kind of risk from their bond funds. The bond**  
14 **exposure is not supposed to be where you take risks. I'd bet that most of the**  
15 **people who hold that fund have no idea what's it's actually invested in. I'm**  
16 **just as sure that most of our FAs have no idea what's in that fund either.**  
17 They think the return are great because the PM is so smart. He definitely is smart,  
18 but it's the same as thinking your small cap manager is a hero because he beat the  
19 S&P for the last 5 years.

20 **If people are using RMK as their core, or only bond fund, I think it's only a**  
21 **matter of time before we have some very unhappy investors.**  
22 (Emphasis added.).

23 Certain MKC brokers and branch managers interviewed during the investigation stated that they  
24 received limited or no guidance as to appropriate concentrations of the Funds to use within  
25 clients' accounts.

26 **E. REQUIREMENT TO CONDUCT AN ADEQUATE AND THOROUGH**  
**CORRESPONDENCE REVIEW**

37. A salesperson of MKC provided one known customer with a self-made chart  
assuming the hypothetical growth of \$100,000 over five years, and comparing the rate of return  
on CDs to the return on the Intermediate Bond Fund. The chart failed to address any risks of  
investing in the fund, save the caption "Not FDIC Insured."

38. The MKC salesperson referred to in the preceding paragraph created a sales



1 illustration in which he compared the returns for the Intermediate Bond Fund to the returns for  
2 traditional bank CDs. The salesperson used the illustration in order to market the Intermediate  
3 Bond Fund to bank customers. The salesperson stated that he created the illustration and that the  
4 illustration was not reviewed or approved by appropriate supervisory personnel of MKC. The  
5 chart fails to address any risks of investing in the Intermediate Bond Fund, save the caption “Not  
6 FDIC Insured.”

7 **F. SUPERVISION**

8 39. Carter Anthony, President of MAM from 2001 until the end of 2006, has testified  
9 under oath that he conducted performance reviews of all MAM mutual fund managers that  
10 included reviews of their portfolios and trading. However, he testified that he did not conduct the  
11 same supervisory review and oversight of Kelsoe and the Funds because he was instructed to  
12 “leave Kelsoe alone.” MAM denies that any such instruction was given.

13 40. In December 2001, Kelsoe signed a new account form as branch manager, when he,  
14 in fact, was never a branch manager nor held any supervisory/compliance licenses. Proper  
15 supervision of Kelsoe’s activities would have detected such an unauthorized action on his part.

16 **G. MAINTENANCE OF REQUIRED BOOKS AND RECORDS**

17 41. MAM’s Fund Management fundamental and qualitative research was touted in  
18 marketing and research material.

19 42. MAM, through its Portfolio Managers, selected securities for investments by the  
20 Funds' portfolios. MAM was consulted regarding the fair valuation of certain securities held by  
21 the portfolios. Adequate documentation was not retained as to pricing adjustments recommended  
22 by MAM to be made to certain of the securities.

23 43. WMS performed annual due diligence reviews of certain of the Funds and Fund  
24 management (MAM and Kelsoe). In mid-2007, MAM and Kelsoe did not provide sufficient  
25 information to allow completion of the 2007 annual due diligence review conducted by MKC  
26 through WMS. Kelsoe did not make himself available for a meeting during normal operating



1 hours, further delaying the completion of WMS's on-site due diligence review. As a  
2 consequence, the report for two of the open-end funds was not completed. By August 2007,  
3 WMS dropped coverage of proprietary products and a report for 2007 was never released to the  
4 MKC sales force.

5 **H. KELSOE'S RESPONSIBILITIES AND CONDUCT**

6 44. In addition to his duties regarding management of the Funds and selection of  
7 investments, Kelsoe was responsible for reviewing information regarding holdings of the Funds  
8 to be included in marketing materials and filings with the SEC. Kelsoe also was responsible for  
9 supervising his staff's involvement with these processes, as well as their interaction with third  
10 parties. Kelsoe had the most knowledge at MAM about the nature of the holdings of the Funds,  
11 including the types of securities being purchased or sold for the Funds, the risks associated with  
12 the holdings, and the correlation of the holdings among the Funds. Kelsoe and his staff provided  
13 information for the preparation of regulatory filings, marketing materials, reports and  
14 communications about the Funds. Kelsoe contributed to and delivered commentaries for the  
15 Funds and management discussions of fund performance. The SEC filings for the Funds, for  
16 which Kelsoe and his staff furnished information regarding holdings of each of the Funds, were  
17 provided to Kelsoe for his review prior to filing.

18 45. Kelsoe contributed to and was aware of the usage of the glossies and certain other  
19 marketing materials for the Funds by MAM, as described above, including the descriptions of the  
20 Funds, the allocation pie charts, the use of benchmarks, and characterizations of risks and  
21 features of the Funds.

22 46. Kelsoe's involvement in the fair valuation process for securities held by the Funds  
23 during the period from January 1, 2007 to July 31, 2007, including influencing some dealer  
24 confirmations that were returned, contributed to certain inaccurate valuations of selected  
25 holdings on various dates during that period.

26 47. From January 1, 2007 through July 31, 2007, Kelsoe did not retain documentation

1 relating to his recommendations of price changes of certain securities held by the Funds. These  
2 recommendations were used on occasion in the calculation of the daily net asset values of the  
3 Funds.

4 48. From January 1, 2007 through July 31, 2007, Kelsoe failed to review and approve  
5 certain emails and other communications of his staff that characterized the downturn of the  
6 market for certain securities contained within the Funds as a “buying opportunity,” which were  
7 circulated to certain MKC FAs.

### 8 III.

### 9 CONCLUSIONS OF LAW

10 1. The Director is responsible for the enforcement of laws governing the issuance, sale,  
11 and other transactions relative to securities pursuant to ORS 59.235 and ORS 59.245.

12 2. In violation of ORS 59.205(2)<sup>1</sup>, MKC and/or MAM conducted and participated in the  
13 following practices:

14 a. MAM failed to adequately disclose in quarterly, semi-annual and annual reports  
15 filed with the SEC prior to late 2007 some of the risks associated with investment in the Funds.

16 b. In SEC disclosure filings, MAM classified approximately \$400 million of asset-  
17 backed securities as corporate bonds and preferred stocks, when they were the lower tranches of  
18 asset-backed structured debt instruments.

19 c. MKC and MAM used industry benchmarks not directly comparable to the Funds.

20 d. In certain marketing and disclosure materials, MKC and MAM did not correctly  
21 characterize the Funds and their holdings.

22 e. In certain instances, MKC and MAM failed to adequately disclose to retail  
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24 <sup>1</sup> Certain statutes within the Oregon Securities Law require willful conduct for a violation to be  
25 actionable, but, as with federal securities laws, a “willful violation” means merely “that the  
26 person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 413  
(D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949).





1 customers the Funds' risks of volatility and illiquidity.

2 f. In certain instances, MKC, through some of its FAs, inappropriately compared the  
3 returns of the Intermediate Bond Fund to the returns of certificates of deposit and other low risk  
4 investments.

5 g. In certain marketing materials, MKC and MAM used charts and visual aids that  
6 demonstrated a level of diversification in the Funds that did not exist.

7 3. In violation of ORS 59.205(13), MKC and/or MAM failed to reasonably supervise  
8 their salespersons, employees and associated persons in the following manner:

9 a. In certain instances, MKC and MAM allowed the Funds' manager, Kelsoe, to  
10 operate outside of the firm organizational supervisory structure.

11 b. In certain instances, MKC and MAM failed to perform adequate supervisory  
12 reviews of Kelsoe.

13 c. MKC, through WMS, and MAM failed to perform sufficient due diligence  
14 reviews of the Funds.

15 d. MKC and MAM allowed Kelsoe to improperly influence the net asset value  
16 calculations of the Funds in certain instances during the period from January through July of  
17 2007.

18 e. MKC failed to assure adequate training and supervision of certain salespersons in  
19 the composition and true nature of the funds.

20 f. MKC allowed salespersons to recommend (or in discretionary accounts, to  
21 purchase) an overconcentration of the Funds in some client accounts.

22 4. In violation of OAR 441-205-0140, MKC and/or MAM failed to make suitable  
23 recommendations to some investors as demonstrated by the following:

24 a. MKC allowed salespersons to recommend (or in discretionary accounts, to  
25 purchase) an overconcentration of the Funds in some client accounts.

26 b. MKC and MAM recommended and sold the Intermediate Bond Fund and the



1 Short Term Bond Fund to clients as a low risk, stable principal, liquid investment opportunity.

2 c. In a number of instances, MKC sold or recommended investments to retail  
3 investors without determining the risk tolerances of the investors.

4 5. In violation of OAR 441-205-0210(3)(b), MKC failed to enforce their supervisory  
5 procedures in the following manner:

6 a. MKC failed to review certain customer accounts for over concentration and  
7 proper diversification.

8 b. MKC failed to adequately determine suitability of the Funds as it related to the  
9 investment needs of certain of their clients.

10 6. In violation of OAR 441-205-0210(3)(c), MKC and/or MAM in many instances  
11 failed to review correspondence and marketing materials used by associated persons to sell the  
12 Funds:

13 a. MKC failed to discover that a salesperson used a comparison of the return of the  
14 Intermediate Bond Fund to the returns of a bank certificate of deposit.

15 b. MKC and MAM allowed marketing materials containing inaccurate  
16 representations relating to the composition of the Funds to be used by their salespersons.

17 c. MKC and MAM allowed marketing materials that represented that no derivative  
18 products were contained in the Intermediate Bond Fund to be used by salespersons, when in fact  
19 some derivative products were contained in the Fund.

20 7. In violation of OAR 441-205-0140, in certain cases, MKC and MAM inappropriately  
21 recommended the purchase of the Funds for client portfolios without reasonable justification that  
22 said recommendation was suitable for the client.

23 8. In violation of ORS 59.205(2), MKC distributed marketing materials and MAM  
24 distributed disclosure materials that were inaccurate:

25 a. MAM failed to adequately disclose in quarterly, semi-annual and annual reports  
26 filed with the SEC prior to late 2007 some of the risks associated with investment in the Funds.





1 preclude the Director from opposing a request for expungement by a past or present employee or  
2 other agent before a regulatory or self-regulatory entity, any court of competent jurisdiction, or  
3 any hearing officer, under circumstances it deems appropriate.

4 2. This Consent Order is entered into for the purpose of resolving in full the referenced  
5 multistate investigation with respect to Respondents who have executed this Consent Order and  
6 any of their affiliates.

7 3. MKC and MAM will CEASE AND DESIST from violating the Oregon Securities  
8 Law, and will comply with the Oregon Securities Law.

9 4. Pursuant to this Oregon Consent Order (No. S-11-0067) and related Consent Orders  
10 of the states of Alabama (SC-2010-0016), South Carolina (File No.: 08011), Kentucky (Agency  
11 Case No.: 2010-AH-021/Administrative Action No.: 10-PPC0267), Tennessee Consent Order  
12 (Docket No.: 12.06-107077J/Order No. 11-005), and Mississippi (Administrative Proceedings  
13 File No. S-08-0050), the offer of settlement in SEC Administrative Proceeding (File No. 3-  
14 13847) (the "SEC Order") and the FINRA Letter of Acceptance, Waiver and Consent No.  
15 2007011164502, MKC and MAM has or shall pay in resolution of all of these matters, within ten  
16 (10) days of the entry of the SEC Order the sum of \$200 million to be distributed as follows: 1)  
17 \$100 million to the SEC's Fair Fund to be established in this matter for the benefit of investors in  
18 the Funds that are the subject of the SEC Order; and 2) \$100 million to a States' Fund to be  
19 established in this matter for the benefit of investors in the Funds that are the subject of this  
20 Consent Order. Any costs, expenses, and charges associated with the Fair Fund and States' Fund  
21 management and distributions shall be paid by MKC and MAM and shall not diminish the fund  
22 corpus. The Fair Fund and the States' Fund shall be distributed pursuant to distribution plans  
23 drawn up by the administrator(s) ("Fair Fund Administrator" for the SEC's portion and "Fund  
24 Administrator" for the States' portion). The administrator(s) are to be respectively chosen by a  
25 representative designated by the state agencies of Alabama, Kentucky, Tennessee, South  
26 Carolina and Mississippi ("States' Fund Representative"), and the SEC. Nothing in this



1 paragraph shall require or limit the SEC's and the States' choice of fund administrators which  
2 may or may not be the same entity or person for both funds.

3 5. MKC and MAM shall pay the sum of \$18,327 (eighteen thousand, three hundred  
4 twenty seven dollars) to the Oregon Department of Consumer and Business Services as a civil  
5 penalty, pursuant to ORS 59.995(1), for the General Fund of the State Treasury, which amount  
6 constitutes Oregon's share of the state settlement amount of \$10 million. The payment to Oregon  
7 shall be payable as follows: a check made payable to the "Department of Consumer and  
8 Business Services". All funds shall be delivered to the Department of Consumer and Business  
9 Services within ten days of the execution of this Consent Order. In the event another state  
10 securities regulator determines not to accept the settlement offer, the total amount of the payment  
11 to Oregon shall not be affected.

12 6. If the payment is not made by MKC or MAM, the Director may vacate this Consent  
13 Order, at its sole discretion, upon thirty (30) days notice to MKC and/or MAM, and, without  
14 opportunity for an administrative hearing, enter a final order or decree if such default is not cured  
15 to the satisfaction of the regulators within the thirty (30) day notice period. Any dispute related  
16 to any payments required under this Consent Order shall be construed and enforced in  
17 accordance with, and governed by, the laws of the state of Oregon without regard to any choice  
18 of law principles.

19 7. This Consent Order shall not disqualify MKC and MAM, or any of their affiliates or  
20 salespersons from any business that they otherwise are qualified or licensed to perform under any  
21 applicable state law and is not intended to and shall not form the basis for any disqualification or  
22 suspension in any state. Further, this Consent Order is not intended to and shall not form the  
23 basis for any disqualifications contained in the federal securities law, the rules and regulations  
24 thereunder, the rules and regulations of self-regulatory organizations, or various states' securities  
25 laws including but not limited to any disqualifications from relying upon the registration  
26 exemptions or safe harbor provisions.



1 8. MKC, MAM, and all of their existing and future affiliates and subsidiaries are  
2 prohibited from creating, offering or selling a proprietary fund<sup>2</sup> that is a registered investment  
3 company and is marketed and sold to investors other than institutional and other qualified  
4 investors as defined in Section 3(a)(54) of the Securities Exchange Act of 1934, 15 U.S.C. §  
5 78c(a)(54), (“proprietary fund”) for a period of two (2) years from the entry of the first of the  
6 State Consent Orders to be entered in this matter. MKC, MAM, their affiliates or subsidiaries,  
7 may seek permission to resume offering or begin offering a proprietary fund in Oregon after the  
8 lapse of the first year of the prohibition, but may not proceed with the offer and sale of such  
9 proprietary fund in the Oregon prior to receiving the express written consent and approval of the  
10 Director.

11 9. State Regulatory Audits or Examinations as authorized by ORS 59.235. In addition  
12 to any state regulatory audits or examinations authorized by ORS 59.235, the Director may  
13 conduct appropriate audits or examinations of the offices and branch offices of the Respondents  
14 MKC and MAM. Appropriate costs associated with such audits or examinations conducted  
15 within two years from the date of this Consent Order, shall be borne by MKC and/or MAM.  
16 This provision in no way limits the assessment of costs by states which routinely assess  
17 registrants with the costs of audits.

18 10. If prior to January 1, 2016, MKC and/or MAM shall again form and sell any  
19 proprietary investment products<sup>3</sup>, they shall at that time retain, for a period of three years, at their

20 <sup>2</sup>Any such proprietary fund is specifically deemed to be subject to the oversight in paragraph 10.

21 <sup>3</sup> The term “proprietary investment product” or “proprietary product” or “proprietary fund”, as  
22 used in this Consent Order, refers to those investment products or offerings which MKC and/or  
23 MAM have created or may create and for which they or any of their existing or future affiliates is  
24 the issuer and lead underwriter. This definition, however, shall not apply to proprietary products  
25 or offerings in existence at the time of affiliation with MKC or MAM through any future  
26 acquisition, merger or other form of business combination with an entity not currently under  
common control with MKC or MAM. Nor shall this definition apply to future proprietary  
products or offerings that are created following such acquisition, merger or other form of  
business combination, unless such proprietary products are created by MKC or MAM.



1 own expense, an independent auditor, acceptable to the representative designated by the state  
2 agencies of Alabama, Kentucky, Mississippi, Tennessee, and South Carolina (“States’  
3 Representative”) and the SEC. The independent auditor cannot be an affiliated entity of MKC or  
4 MAM. Further, to ensure the independence of the independent auditor, MKC and/or MAM: (a)  
5 shall not have the authority to terminate the independent auditor without prior written approval  
6 of the States’ Representative; (b) shall not be in and shall not have an attorney-client relationship  
7 with the independent auditor and shall not seek to invoke the attorney-client or any other  
8 privilege or doctrine to prevent the independent auditor from transmitting any information,  
9 reports, or documents to the States; and (c) during the period of engagement and for a period of  
10 two years after the engagement, shall not enter into any employment, customer, consultant,  
11 attorney-client, auditing, or other professional relationship with the independent auditor.

12 The scope of the independent auditor’s engagement shall be approved by the States’  
13 Representative prior to the commencement of the audit, and shall include, but is not limited to,  
14 reviews and examinations of:

15 a. All firm policies and procedures, relating to proprietary products and/or  
16 proprietary offerings including, but not limited to, supervisory, books and records, compliance  
17 and document retention policies and procedures;

18 b. The composition of each proprietary fund sold or recommended to clients at least  
19 annually;

20 c. All proprietary product and/or proprietary offering marketing materials used or  
21 distributed by their salespersons, representatives, or other employees or affiliates, at least  
22 quarterly;

23 d. Potential/actual conflicts of interest with any affiliates, including Regions Morgan  
24 Keegan Trust, F.S.B., MKC and MAM, or affiliated persons/control persons. Said review shall  
25 be annual unless an increased frequency is deemed necessary by state, federal, and SEC entities;  
26 and



- 1           11. Further, the independent auditor shall:
- 2           a. Consult with the States’ Representative and the SEC about areas of concern prior
- 3 to entering into an engagement document with MKC and MAM;
- 4           b. Draft and provide reports as often as may be agreed upon by the States’
- 5 Representative and the independent auditor with an assessment of the status, compliance, and
- 6 recommendations pertaining to the organizational, procedural, and policy issues that are the
- 7 subject of the engagement;
- 8           c. Simultaneously distribute copies of the reports from paragraph 12b above to
- 9 MKC, MAM, the States’ Representative and the SEC; the States’ Representative may distribute
- 10 the report to NASAA members as the States’ Representative deems appropriate. To the extent
- 11 permitted by the Oregon public records laws, including but not limited to ORS 192.502(4), these
- 12 reports will be deemed confidential submissions and, upon receipt of any legal process or public
- 13 records request pursuant to a state’s public information statute or a federal Freedom of
- 14 Information Act (“FOIA”) request for access, the state regulator should promptly notify MKC
- 15 and/or MAM, in order that the Respondents have an opportunity to challenge the release of the
- 16 information;
- 17           d. Submit copies of all drafts, notes, and other working papers to coincide with the
- 18 issuance of the reports;
- 19           e. Issue recommendations for changes to policies, procedures, compliance, books
- 20 and records retention programs, and all other areas that are the subject of the engagement;
- 21           f. Establish reasonable deadlines for the implementation of the recommendations
- 22 provided in the report; and
- 23           g. For any recommendations noted but not included in the final report, provide
- 24 justification for excluding the recommendation from the final report.
- 25           12. MKC and MAM shall:
- 26           a. Review the reports submitted by the independent auditor;



1           b.       Within 60 days of the issuance of an audit report, submit, in writing, to the States’  
2 Representative and the SEC any objections to implementation of any of the recommendations  
3 made by the independent auditor;

4           c.       If no objection to a recommendation is made within the 60 day deadline, the  
5 recommendation will be implemented within the time frame established for the recommendation  
6 by the independent auditor in the report; and

7           d.       If objection is timely made to a recommendation, the States’ Representative and  
8 the SEC will consider the objections, review the recommendation and determine jointly whether  
9 implementation shall be required over the objections of MKC and MAM.

10       13.       MKC and MAM shall have, no later than August 22, 2011 retained, at their own  
11 expense, an independent consultant (“Consultant”), acceptable to the States’ Representative, and  
12 the SEC. The Consultant shall review MKC’s and/or MAM’s: (i) current written supervisory  
13 and compliance procedures concerning product suitability; (ii) current written supervisory and  
14 compliance procedures regarding recommendations and disclosures relating to registered  
15 investment companies; (iii) current written supervisory and compliance procedures relating to  
16 advertising and sales literature regarding the purchase and sale of registered investment  
17 companies; and (iv) the implementation and effectiveness of (i) through (iii); provided that the  
18 lookback period for (i) through (iii) shall not exceed the twelve month period prior to June 21,  
19 2011.

20           a.       No later than October 20, 2011, the Consultant shall have made an Initial Report  
21 with recommendations thereafter on such policies and procedures and their implementation and  
22 effectiveness. The Initial Report shall describe the review performed and the conclusions  
23 reached, and will include any recommendations for reasonable changes to policies and  
24 procedures. MKC and MAM shall direct the Consultant to submit the Initial Report and  
25 recommendations to the States’ Representative and the SEC at the same time it is submitted to  
26 MKC and MAM.



1           b.       The parties hereto recognize that the Consultant will have access to privileged or  
2 confidential trade secrets and commercial or financial information and customer identifying  
3 information the public dissemination of which could place MKC and MAM at a competitive  
4 disadvantage and expose their customers to unwarranted invasions of their personal privacy.  
5 Therefore, it is the intention of the parties that such information shall not be disclosed to any  
6 third party, and shall remain confidential and protected, to the extent permitted by the Oregon  
7 public records laws, including but not limited to ORS 192.501(2), and applicable FOIA statutes  
8 or other federal or state regulations or policies.

9           c.       Within 30 days of receipt of the Initial Report, MKC and MAM shall respond in  
10 writing to the Initial Report. In such response, MKC and MAM shall advise the Consultant, the  
11 States' Representative, and the SEC, the recommendations from the Initial Report that MKC and  
12 MAM have determined to accept and the recommendations that they consider to be unduly  
13 burdensome. With respect to any recommendation that MKC and MAM deem unduly  
14 burdensome, MKC and MAM may propose an alternative policy, procedure or system designed  
15 to achieve the same objective or purpose.

16           d.       MKC and MAM shall attempt in good faith to reach agreement with the  
17 Consultant within 60 days of the date of the receipt of the Initial Report with respect to any  
18 recommendation that MKC and MAM deem unduly burdensome. If the Consultant and MKC  
19 and MAM are unable to agree on an alternative proposal, MKC and MAM shall submit, in  
20 writing, to the States' Representative and the SEC, their objections and any alternative  
21 proposal(s) made to the Consultant, and the States' Representative and the SEC shall determine  
22 jointly whether implementation shall be required over the objections of MKC and MAM or  
23 whether to accept the alternative proposal(s). Within 90 days of the date of the receipt of the  
24 Initial Report or, in instances in which an alternative proposal is submitted, 90 days from a joint  
25 decision by the States' Representative and the SEC regarding any objectionable portions of the  
26 Initial Report, MKC and MAM shall, in writing, advise the Consultant, the States'



1 Representative, and the SEC of the recommendations and proposals that they are adopting.

2 e. No later than one year after the date of the Consultant's Initial Report, MKC and  
3 MAM shall cause the Consultant to complete a follow-up review of MKC's and MAM's efforts  
4 to implement the recommendations contained in the Initial Report, and MKC and MAM shall  
5 cause the Consultant to submit a Final Report to the States' Representative, and the SEC. The  
6 Final Report shall set forth the details of MKC's and MAM's efforts to implement the  
7 recommendations contained in the Initial Report, and shall state whether MKC and MAM have  
8 fully complied with the recommendations in the Initial Report.

9 f. MKC and MAM shall cause the Consultant to complete the aforementioned  
10 review and submit a written Final Report to MKC, MAM, the States' Representative, and the  
11 SEC within 360 days of the date of the Initial Report. The Final Report shall recite the efforts  
12 the Consultant undertook to review MKC's and MAM's policies, procedures, and practices; set  
13 forth the Consultant's conclusions and recommendations; and describe how MKC and MAM are  
14 implementing those recommendations.

15 g. To ensure the independence of the Consultant, MKC and/or MAM: (a) shall not  
16 have the authority to terminate the Consultant without prior written approval of the States'  
17 Representative; (b) shall compensate the Consultant, and persons engaged to assist the  
18 Consultant, for services rendered pursuant to this Order at their reasonable and customary rates;  
19 (c) shall not be in and shall not have an attorney-client relationship with the Consultant and shall  
20 not seek to invoke the attorney-client or any other privilege or doctrine to prevent the Consultant  
21 from transmitting any information, reports, or documents to the States; and (d) during the period  
22 of engagement and for a period of two years after the engagement, shall not enter into any  
23 employment, customer, consultant, attorney-client, auditing, or other professional relationship  
24 with the Consultant. Notwithstanding the foregoing, the Consultant may serve as a Consultant  
25 for both MKC and MAM.

26 14. MKC and MAM shall provide, to all of their licensed salespersons and investment



1 adviser representatives mandatory, comprehensive, and ongoing (i) product/offering training on  
2 each of the proprietary products/offerings that they sell or recommend to clients, and (ii) training  
3 on suitability and risks of investments generally. The training required pursuant to this paragraph  
4 shall be for a period of three years commencing June 21, 2011, and shall be in addition to any  
5 continuing education training required to maintain the licenses of the salespersons and  
6 investment adviser representatives and shall include, at a minimum, training on all of the  
7 following:

- 8 a. Suitability as it applies to the various types of products/offerings, proprietary or  
9 otherwise, the salesperson sells at MKC;
- 10 b. The type and nature of the holdings and risks attendant thereto in any proprietary  
11 product/offering sold by the firm, for which the firm or any affiliate purchased the underlying  
12 holdings, that the licensed person will be selling or recommending to clients;
- 13 c. The risks associated with the proprietary product/offering; and
- 14 d. Conflicts of interest that may arise as a result of the sale/recommendation of the  
15 proprietary product/offering.

16 15. For training related to proprietary products/offerings, MKC and MAM shall develop  
17 and implement course evaluations to be completed by each salesperson and investment adviser  
18 representative in order to assess the effectiveness of the training.

- 19 16. MKC and MAM shall;
  - 20 a. Maintain a log of each salesperson/representative's completed courses, copies of  
21 which they shall provide to the States' Representative upon request;
  - 22 b. Only allow salespersons/representatives to sell/recommend proprietary products  
23 and/or proprietary offerings for which they have completed and verified training;
  - 24 c. Maintain an archive of all training material that may be accessed by  
25 salespersons/representatives on an as-needed basis after training is completed, copies of which  
26 they shall provide to the States' Representative upon request;



1 d. Maintain current training materials on proprietary products and/or proprietary  
2 offerings being offered or sold to any of their clients, copies of which they shall provide to the  
3 States' Representative upon request;

4 e. Maintain a manned product/offering help desk that is available to answer  
5 questions from salespersons/representatives during regular business hours, the person manning  
6 such shall be licensed with a minimum of a Series 65 or 7 license or registration; and

7 f. Provide to the Director an annual certification that MKC and MAM are in  
8 compliance with the required training and maintenance of training materials.

9 17. One person shall not simultaneously hold the positions of General Counsel and Chief  
10 Compliance Officer for either Respondent.

11 18. Nothing herein shall preclude the state of Oregon], its departments, agencies, boards,  
12 commissions, authorities, political subdivisions, and corporations (collectively "State Entities"),  
13 other than the Director and only to the extent set forth herein, from asserting any claims, causes  
14 of action, or applications for compensatory, nominal and/or punitive damages, administrative,  
15 civil, criminal, or injunctive relief against MKC and MAM in connection with the marketing and  
16 sales practices of the Funds at MKC or MAM.

17 19. Any dispute or default other than related to the payment as referenced in section IV,  
18 paragraph 6, *supra*, related to this Consent Order shall be construed and enforced in accordance  
19 with, and governed by, the laws of the state of Oregon without regard to any choice of law  
20 principles.

21 20. Unless otherwise stipulated, the parties intend that the monies allocated through the  
22 SEC's Fair Fund and/or the States' Fund, including the monies allocated pursuant to this Consent  
23 Order, to the investors of any given State will be treated as an offset against any order for MKC  
24 or MAM to pay any amount (whether designated as restitution, fines or otherwise compensatory  
25 in nature) in any action brought by that State or any of the regulatory agencies thereof and not  
26 concluded by this Consent Order. Notwithstanding the foregoing, and except as delineated in



1 paragraphs 41 through 43, this Consent Order is presumed to be treated as a settlement for  
2 evidentiary purposes and not as evidence of either damage or liability itself. MKC and MAM  
3 further agree that in the event they should enter into a consent order prior to an adjudication on  
4 the merits with another State's securities regulator which provides each investor a higher return  
5 of losses per invested dollar than under the terms of this Consent Order, then the Director may, at  
6 its option, obtain the same payout of losses per invested dollar for the investors of this State.

7 21. Respondents MKC and MAM agree not to make or permit to be made any public  
8 statement denying, directly or indirectly, any finding in this Consent Order or creating the  
9 impression that this Consent Order is without factual basis. Nothing in this Paragraph affects  
10 MKC's or MAM's: (i) testimonial obligations, or (ii) right to take legal or factual positions in  
11 defense of litigation or arbitration or in defense of other legal proceedings in which the Director  
12 is not a party.

13 22. Nothing herein shall affect any statutory authority of the Director, including but not  
14 limited to, inspections, visits, examinations, and/or the production of documents

15 23. This Consent Order shall be binding upon MKC and MAM, and their successors and  
16 assigns, with respect to all conduct subject to the provisions above and all future obligations,  
17 responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

18 Dated this 26th day of January, 2012 at Salem, Oregon.

19 PATRICK ALLEN, Director  
20 Department of Consumer and Business Services

21  
22 /s/ David Tatman  
23 David C. Tatman, Administrator  
24 Division of Finance and Corporate Securities  
25  
26

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387



1                                    **CONSENT TO ENTRY OF ORDER BY MORGAN ASSET**

2                                    **MANAGEMENT, INC. AND MORGAN KEEGAN & COMPANY, INC.**

3                                    Morgan Asset Management, Inc. and Morgan Keegan & Company, Inc. (“Respondents”)  
4 hereby acknowledge that they have been served with a copy of this Order to Cease and Desist,  
5 Order Assessing Civil Penalty, and Consent to Entry of Order (“Consent Order”), have read the  
6 foregoing Consent Order, are aware of each of their right to a hearing and appeal in this matter,  
7 and have waived the same.

8                                    Respondents admit the jurisdiction of the Director; admit to the allegations in paragraphs  
9 41 through 43 of Section II, relating to the maintenance of books and records, but otherwise  
10 neither admit nor deny any of the findings of fact, allegations, assertions or conclusions of law  
11 that have been made herein in this proceeding; and Respondents further consent to entry of this  
12 Consent Order by the Director as settlement of the issues contained in this Consent Order.

13                                    Respondents enter into this Consent Order voluntarily and represent that no threats,  
14 offers, promises, or inducements of any kind have been made by the Director or any member,  
15 officer, employee, agent, or representative of the Department of Consumer and Business  
16 Services to induce Respondents to enter into this Consent Order other than as set forth in the  
17 Consent Order.

18                                    /s/ Brian B Sullivan represents that he/she is President of Morgan  
19 Asset Management, Inc. and that, as such, has been authorized by Morgan Asset Management,  
20 Inc. to enter into this Consent Order for and on behalf of Morgan Asset Management, Inc.

21                                    James T. Ritt represents that he/she is General Counsel of Morgan  
22 Keegan & Company, Inc. and that, as such, has been authorized by Morgan Keegan & Company,  
23 Inc. to enter into this Consent Order for and on behalf of Morgan Keegan & Company, Inc.

24                                    Respondents agree that they shall not claim, assert, or apply for a tax deduction or tax  
25 credit with regard to the State of Oregon for any monetary penalty or restitution that  
26 Respondents shall pay pursuant to this Consent Order. Respondents understand and acknowledge

1 that these provisions are not intended to imply that the Director would agree that any other  
2 amounts Respondents shall pay pursuant to this Consent Order may be reimbursed or  
3 indemnified (whether pursuant to an insurance policy or otherwise) under applicable law or may  
4 be the basis for any tax deduction or tax credit with regard to any state, federal, or local tax.

5 MORGAN ASSET MANAGEMENT, INC.

6 By: /s/ Brian B Sullivan

7 Title: President

8 STATE OF Alabama )

) ss.

9 County of Jefferson )

10 SUBSCRIBED AND SWORN TO before me by Brian B. Sullivan, this

11 23rd day of January, 2012.

12 /s/ Janice E. Hill

13 Notary Public

14 My commission expires:

15 12/13/2014

16 MORGAN KEEGAN & COMPANY, INC.

17 By: /s/ James T. Ritt

18 Title: General Counsel

19 STATE OF Tennessee )

) ss.

20 County of Shelby )

21 SUBSCRIBED AND SWORN TO before me by James T. Ritt, this

22 6th day of January, 2012.

23 /s/ Vivian C. Ryan

24 Notary Public

25 My commission expires:

26 April 6, 2014

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387

