

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

The Lucylle G. Thomas Trust, Claimant v. Centex Securities, Inc., Torrey Pines Securities, Inc.,  
and Jeffrey Wetzel, Respondents

Case Number: 00-01295

Hearing Site: San Diego, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Donald B. McNelley, Esq.  
Law Office of Donald B.  
McNelley  
Indian Wells, California

For Respondent Centex Securities, Inc.:

Bruce A. Biddick  
Centex Securities, Inc.  
La Jolla, California

For Respondent Torrey Pines Securities, Inc.:

Eileen L. McGeever, Esq.  
Rushall & McGeever  
Carlsbad, California

For Respondent Jeffrey Wetzel:

Arthur S. Leider  
Investors Arbitration  
Specialists  
San Diego, California

**CASE INFORMATION**

Statement of Claim filed: February 22, 2000

Amendment to Statement of Claim filed: June 29, 2000

Claimant's Uniform Submission Agreement filed: February 22, 2000

Joint Statement of Answer filed by Respondents Centex Securities, Inc. and Jeffrey Wetzel:  
May 23, 2000

Statement of Answer filed by Respondent Torrey Pines Securities, Inc.: June 2, 2000

Respondent Torrey Pines Securities, Inc.'s Uniform Submission Agreement signed:  
April 10, 2000

### **CASE SUMMARY**

Claimant alleged breach of fiduciary duty, negligence, elder abuse, and failure to supervise.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested the following from Respondents Torrey Pines Securities, Inc. and Jeffrey Wetzel: \$163,000 in actual losses, \$32,600 in pre-award interest at the rate of 10% from March 1998 to present, treble damages, punitive damages, attorney's fees, and arbitration costs. Additionally, Claimant requested the following from Respondents Centex Securities, Inc. and Jeffrey Wetzel: \$38,692.00 in unjust enrichment from commissions, \$5,159.00 in interest at the rate of 10% from November 1998 to present, treble damages, punitive damages, attorney's fees, and arbitration costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondent Centex Securities, Inc. was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Centex Securities, Inc. did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

Respondent Jeffrey Wetzel did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Torrey Pines Securities, Inc. and Jeffrey Wetzel are jointly and severally liable to and shall pay Claimant \$110,625.00 in compensatory damages.
- 2) Respondents Centex Securities, Inc. and Jeffrey Wetzel are jointly and severally liable to and shall pay Claimant \$91,633.00 in compensatory damages.
- 3) Claimant's request for treble damages is denied.
- 4) Claimant's request for punitive damages is denied.
- 5) The parties shall bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy.

The member firm Centex Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

The member firm Torrey Pines Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

### **Adjournment Fees**

The following adjournment fees are assessed:

Hearing Dates, November 5, 2002 – November 7, 2001	
adjournment requested by Respondent Jeffrey Wetzel	= \$ 1,200.00

### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$ 1,200.00/session	= \$ 1,200.00
Pre-hearing conference: September 13, 2000 1 session	
5 Hearing sessions @ \$ 1,200.00/session	= \$ 6,000.00
Hearings: March 12, 2002 2 sessions	
March 13, 2002 3 sessions	
<b>Total Forum Fees</b>	<b>= \$ 7,200.00</b>

The Panel assessed \$ 7,200.00 of the forum fees jointly and severally to Respondents Centex Securities, Inc., Torrey Pines Securities, Inc., and Jeffrey Wetzel.

**Fee Summary**

1. Claimant The Lucylle G. Thomas Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
<u>Less payments</u>	<u>= \$(1,575.00)</u>
<b>Refund Due Claimant</b>	<b>= \$(1,200.00)</b>
  
2. Respondent Centex Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 4,600.00</b>
  
3. Respondent Torrey Pines Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	<u>= \$(4,600.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 0.00</b>
  
4. Respondent Jeffrey Wetzel is charged with the following fees and costs:

Postponement Fee	= \$ 1,200.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 1,200.00</b>
  
5. Respondents Centex Securities, Inc., Torrey Pines Securities, Inc., and Jeffrey Wetzel are charged jointly and severally with the following fees and costs:

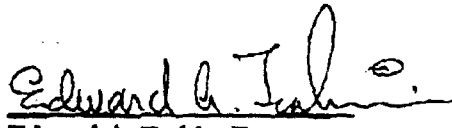
Forum Fees	= \$ 7,200.00
<u>Less payments by Torrey Pines Securities, Inc.</u>	<u>= \$(1,500.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 5,700.00</b>

All balances are payable to NASD Dispute Resolution, Inc. and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Edward A. Trabin, Esq.	-	Public Arbitrator, Presiding Chair
Thomas A. Culbertson, Esq.	-	Public Arbitrator
Dean Schneider	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
Edward A. Trabin, Esq.  
Chair, Public Arbitrator

March 27, 2002  
Signature Date

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Thomas A. Culbertson, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Dean Schneider  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service

ARBITRATION PANEL

Edward A. Trabin, Esq.	-	Public Arbitrator, Presiding Chair
Thomas A. Culbertson, Esq.	-	Public Arbitrator
Dean Schneider	-	Non-Public Arbitrator

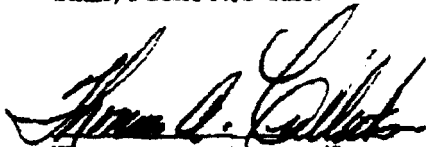
Concurring Arbitrators' Signatures

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Edward A. Trabin, Esq.  
Chair, Public Arbitrator

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Signature Date

  
Thomas A. Culbertson, Esq.  
Public Arbitrator

3/27/02  
Signature Date

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Dean Schneider  
Non-Public Arbitrator

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Signature Date

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Date of Service