

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Werner A. Hradecky, Werner A. and Evette Hradecky, and Werner A. Hradecky, IRA, Claimants
v. Centex Securities, Inc., Thomas Vincent Moore, and Ronald Duane Brouillette, Jr.,
Respondents

Case Number: 01-01615

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimants:

Charles E. Wheeler, Esq.
Cozen and O'Connor
San Diego, California

For Respondent Centex Securities, Inc.:

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

For Respondent Thomas Vincent Moore:

Thomas Vincent Moore
In Pro Per
La Jolla, California

For Respondent Ronald Duane Brouillette, Jr.:

Ronald Duane Brouillette, Jr.
In Pro Per
La Jolla, California

CASE INFORMATION

Statements of Claim filed: March 29, 2001

Claimant Werner A. Hradecky's Uniform Submission Agreement signed: February 19, 2001

Claimants Werner A. and Evette Hradecky's Uniform Submission Agreement signed: February
19, 2001

Claimant Werner A. Hradecky, IRA's Uniform Submission Agreement signed: May 9, 2001

Joint Statement of Answer filed by Respondents Centex Securities, Inc. and Thomas Vincent
Moore: June 29, 2001

CASE SUMMARY

Claimants alleged unsuitability, breach of fiduciary duty, misrepresentations, omission of facts, unauthorized trading, market manipulation, and failure to supervise. The dispute involved the purchase and/or sale of various penny or low priced stocks.

Respondents Centex Securities, Inc. and Thomas Vincent Moore denied the allegations of wrongdoing set forth in the Claimants' Statements of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages as follows:

- 1) Claimant Werner A. Hradecky requested compensatory damages in the amount of \$14,519.00, punitive damages in the amount of \$10,000.00, restitution of commissions, disgorgement of profits made by respondents through manipulation of the market in the stocks traded, interest, and arbitration costs, including attorney's fees.
- 2) Claimants Werner A. and Evette Hradecky requested compensatory damages in the amount of \$84,233.00, punitive damages in the amount of \$150,000.00, restitution of commissions, disgorgement of profits made by respondents through manipulation of the market in the stocks traded, interest, and arbitration costs, including attorney's fees.
- 3) Claimant Werner A. Hradecky, IRA requested compensatory damages in the amount of \$88,093.30, punitive damages in the amount of \$150,000.00, restitution of commissions, disgorgement of profits made by respondents through manipulation of the market in the stocks traded, interest, and arbitration costs, including attorney's fees.

Respondents Centex Securities, Inc. and Thomas Vincent Moore requested dismissal of the Claimants' Statements of Claim in their entirety.

Respondent Ronald Duane Brouillette, Jr. did not file a Statement of Answer.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Claimants dismissed Respondent Ronald Duane Brouillette, Jr. without prejudice.

Respondent Centex Securities, Inc. and Thomas Vincent Moore did not file with the NASD Dispute Resolution properly executed submission agreements but are required to submit to arbitration pursuant to the Code and having answered the claim, are 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 Centex Securities, Inc. and Thomas Vincent Moore are jointly and severally liable to and shall pay Claimants \$105,650.00 in compensatory damages.
- 2) Respondents Centex Securities, Inc. and Thomas Vincent Moore are jointly and severally liable to and shall pay Claimants interest on the sum of \$105,650.00 at the rate of 10% per annum simple interest from date of the Award until paid in full.
- 3) Claimants' request for punitive damages is denied.
- 4) Claimants' request for attorney's fees is denied.
- 5) The monetary Award is based on breach of fiduciary duty by Respondents Centex Securities, Inc. and Thomas Vincent Moore regarding two transactions, or sets of transactions, involving (1) Pay Pop, Inc., \$19,000.00 plus 10% interest from January 1999 to the date of the Award in the amount of \$6,650.00, for a total of \$25,650.00, and (2) Gibbs Construction, Inc., \$80,000.00 with no interest prior to the Award.
- 6) The parties shall bear their respective costs, including attorney's fees.
- 7) 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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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 that gave rise to the dispute, claim, or controversy. Accordingly, the participating terminated 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>
Total Member Fees	= \$ 4,600.00

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 @ \$ 1,125.00 /session	= \$ 1,125.00
Pre-hearing conference: March 11, 2002 1 session	
2 Hearing sessions @ \$ 1,125.00/session	= \$ 2,250.00
Hearing: July 17, 2002 2 sessions	
Total Forum Fees	= \$ 3,375.00

The Panel assessed \$ 3,375.00 of the forum fees jointly and severally to Respondents Centex Securities, Inc. and Thomas Vincent Moore.

Fee Summary

1. Claimants Werner A. Hradecky, Werner A. and Evette Hradecky, and Werner A. Hradecky, IRA are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$(3,425.00)</u>
Refund Due Claimants	= \$(3,125.00)

2. Respondent Centex Securities, Inc. is charged with the following fees and costs:

<u>Member Fees</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,600.00

3. Respondents Centex Securities, Inc. and Thomas Vincent Moore are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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

ARBITRATION PANEL

Bruce W. Belding, Esq.

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Public Arbitrator, Presiding Chair

David Zollman

-


Public Arbitrator

Charles A. Pease

-

Non-Public Arbitrator

Concurring Arbitrators' Signatures


Bruce W. Belding
Chair, Public Arbitrator

July 31, 2002
Signature Date

David Zollman
Public Arbitrator

Signature Date

Charles A. Pease
Non-Public Arbitrator

Signature Date

August 1, 2002
Date of Service

ARBITRATION PANEL

Bruce W. Belding, Esq.	-	Public Arbitrator, Presiding Chair
David Zollman	-	Public Arbitrator
Charles A. Pease	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Bruce W. Belding
Chair, Public Arbitrator

Signature Date

David Zollman
David Zollman
Public Arbitrator

July 31, 2002
Signature Date

Charles A. Pease
Non-Public Arbitrator

Signature Date

August 1, 2002
Date of Service