

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 02-01996

Mary D. Arcari
Mary D. Arcari As Trustee for the Anthony S. Arcari Trust

Name of the Respondents

Hearing Site: Philadelphia, PA

Brookstreet Securities Corporation
Andrew Gordon MacElhenney

REPRESENTATION OF PARTIES

Claimants, Mary D. Arcari and Mary D. Arcari as Trustee for the Anthony S. Arcari Trust, hereinafter collectively referred to as "Claimants", were represented by Nicholas J. Guiliano, Esq., Attorney at Law, Philadelphia, Pennsylvania.

Respondents, Brookstreet Securities Corporation ("Brookstreet") and Andrew Gordon MacElhenney ("MacElhenney"), hereinafter collectively referred to as "Respondents", were represented by Andrew W. Davitt, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on: April 1, 2002.

Amended Statement of Claim filed on: April 17, 2002.

Claimant Mary D. Arcari signed the Uniform Submission Agreement on or about April 17, 2002.

Claimant Mary D. Arcari signed the Uniform Submission Agreement as Trustee for the Anthony S. Arcari Trust on: April 17, 2002.

Preliminary Answer and Motion to Dismiss filed by Respondents on: September 3, 2002.

Respondents filed a Motion for a More Definite Statement of Claim on: September 3, 2002.

Respondent Brookstreet did not file a Uniform Submission Agreement.

Respondent MacElhenney did not file a Uniform Submission Agreement.

Claimant filed a Memorandum in Opposition to Respondents' Preliminary Answer and Motion to Dismiss and to the Motion for a More Definite Statement of Claim on: September 20, 2002.

CASE SUMMARY

Claimants asserted the following causes of action, among others: losses sustained in her stock portfolio; violations of the federal securities laws; churning; excessive activity; suitability; unauthorized trading; fraudulent use of margin; common law fraud; breach of fiduciary duty; and, violations of the Pennsylvania Unfair Trade Practices Act and Consumer Protection law. The causes of action relate to the purchase and sale of unspecified securities.

Unless specifically admitted to in their Answer, Respondents denied all allegations made in the Statement of Claim and asserted the following defenses, among others: assumption of risk; failure to state a claim upon which relief may be granted; ratification; Claimants' claims are barred under the doctrines of laches, estoppel, and by applicable statutes of limitations; failure to exercise due diligence; and, lack of duty; contributory and/or comparative negligence. .

Claimants acknowledge that any such losses in her portfolio were caused by the overall market corrections that began in March 2000.

RELIEF REQUESTED

Claimants requested the following damages:

| | |
|----------------------|--------------------|
| Compensatory Damages | \$ 95,000 |
| Punitive Damages | amount unspecified |
| Interest | amount unspecified |
| Attorneys' Fees | amount unspecified |
| Other Costs | amount unspecified |
| Lost income | amount unspecified |

Respondents requested that the Claimants' claims be dismissed in their entirety, that all costs be assessed against Claimants, including the awarding of attorneys fees, and that this matter be expunged from Respondent MacElhenney's Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Brookstreet and MacElhenney did not file with NASD Dispute Resolution properly executed submissions to arbitration, but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Arbitration Panel (the "Panel") on all issues submitted.

Prior to the hearing, the parties fully and finally settled all claims by and between them. Therefore, the parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The listed parties have amenablely resolved their differences and have requested this Stipulated Award;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Andrew Gordon MacElhenney's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents

MacElhenney must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below;
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

| | |
|--------------------------|-------------|
| Initial claim filing fee | = \$ 225.00 |
|--------------------------|-------------|

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Brookstreet is a party.

| | |
|-------------------------|---------------|
| Member surcharge | = \$ 1,100.00 |
| Pre-hearing process fee | = \$ 750.00 |

Fee Summary

Claimants are jointly and severally assessed and shall pay:

| | |
|---------------------------|--------------------|
| <u>Initial Filing Fee</u> | <u>= \$ 225.00</u> |
| Total Fees | = \$ 225.00 |
| <u>Less payments</u> | <u>= \$ 975.00</u> |
| Refund owed to Claimants | = \$ 750.00 |

Respondent Brookstreet is assessed and shall pay:

| | |
|-------------------------------------|----------------------|
| <u>Member Fees</u> | <u>= \$ 1,850.00</u> |
| Total Fees | = \$ 1,850.00 |
| <u>Less payments</u> | <u>= \$ 1,850.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 00 |

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

ARBITRATION PANEL

John W. Lear

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Public Arbitrator, Presiding Arbitrator

Arbitrator's Signature

John W. Lear
Public Arbitrator, Presiding Arbitrator

July 5, 2003
Signature Date

July 22, 2003
Date of Service
(For NASD Dispute Resolution office use only)
