

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Aaron Pearlman; Jeneane Pearlman;
NFSC/FMTC IRA FBO Aaron Pearlman; and
NFSC/FMTC IRA FBO Jeneane Gartner Pearlman

Case Number: 02-06622

Name of the Respondents

Brookstreet Securities Corp.;
Michael P. Harris; and,
Stanley Clifton Brooks

Hearing Site: Dallas, Texas.

NATURE OF DISPUTE

Public Customers v. Member Firm and Associated Persons

REPRESENTATION OF PARTIES

Claimant Aaron Pearlman, Jeneane Pearlman, NFSC/FMTC IRA FBO Aaron Pearlman and NFSC/FMTC IRA FBO Jeneane Gartner Pearlman, hereinafter collectively referred to as "Claimants": William B. Federman, Esq. of the firm of Federman & Sherwood, located in Oklahoma City, Oklahoma.

Respondents Brookstreet Securities Corp. ("Brookstreet"), Michael P. Harris ("Harris") and Stanley Clifton Brooks ("Brooks") hereinafter collectively referred to as "Respondents": H. Thomas Fehn, Esq. of the firm of Fields, Fehn & Sherwin, located in Los Angeles, California.

CASE INFORMATION

Statement of Claim filed: November 4, 2002.

Claimants signed the Uniform Submission Agreement: October 28, 2002.

Statement of Answer filed by Respondents Brookstreet and Harris: January 17, 2003.

Respondent Brookstreet signed the Uniform Submission Agreement: December 12, 2002.

Respondent Harris signed the Uniform Submission Agreement: January 24, 2003.

Respondent Brooks did not file a Statement of Answer, but signed a Uniform Submission Agreement on: July 8, 2004.

Amended Statement of Claim filed: April 14, 2003.

Motion to Amend Statement of Claim filed: April 21, 2003.

Respondent Brookstreet and Harris' Response to the Claimant's Motion to Amend filed: May 1, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: violation of the Texas Deceptive Trade Practices Act; violation of the Federal Securities Exchange Act; violation of the Texas Securities Statutes; violation of the Texas fraud statute, Section 27.01 of the Texas Business and Commerce Code; intentional and negligent misrepresentation; unjust enrichment; breach of fiduciary duty; breach of duty of good faith and fair dealing; gross negligence; and intentional acts of civil conspiracy. Claimants alleged that these causes of action were related to a series of option trades and purchases in speculative technology stocks, as well as trading on margin that led to a loss of over forty per cent of their net worth and retirement assets.

Unless specifically admitted in their Answer, Respondents Brookstreet and Harris denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The Claimants received confirmations, monthly statements and other reports directly from Harris and knew of every transaction, yet never complained of the activity in the account. Furthermore, Brookstreet sent, and the Claimants received, over 25 separate letters indicating that Brookstreet had noticed a significant level of trading activity and inviting them to complain directly to Brookstreet's home office if their account was being traded against their needs. No complaint was ever received;
2. The decline of the account was the result of market factors that drove down the value of almost every portfolio in America. After discussion with Harris, the Claimants agreed to stay their course. Unfortunately, the depth and duration of the market downturn could not be predicted; and
3. All trading in the account was suitable for the Claimants and conducted exactly in conformity with their expressed investment objective.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	Approximately \$700,000.00
Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Pursuant to Texas Statute
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief if any:	Unspecified

On or about May 1, 2003, the claim was amended to request \$469,756.00 in compensatory damages.

Respondents Brookstreet and Harris requested that the claim be dismissed in its entirety and that Respondents be awarded attorney's fees and costs of defense.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel granted the Motion to Amend at the Initial Pre-Hearing Conference of May 21, 2003.

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

1. Respondents Brookstreet Securities Corp. and Michael P. Harris are jointly and severally liable for and shall pay to Claimants Aaron and Jeneane Pearlman the sum of \$288,800.00 in compensatory damages;
2. In addition, Respondents Brookstreet Securities Corp. and Michael P. Harris are jointly and severally liable for and shall pay to Claimant NFSC/FMTC IRA FBO Aaron Pearlman the sum of \$69,600.00 in compensatory damages, plus interest in the sum of \$45,000.00, for total damages of \$114,600.00;
3. Furthermore, Respondents Brookstreet Securities Corp. and Michael P. Harris are jointly and severally liable for and shall pay to Claimants Aaron and Jeneane Pearlman, and the NFSC/FMTC IRA FBO Aaron Pearlman, the sum of \$100,000.00 as attorneys' fees. In deciding to award attorneys' fees, the Panel considered the pleadings, evidence and arguments presented by Counsel, as well as Texas law, and determined that authority existed for an award of attorneys' fees to the Claimants;
4. Respondents Brookstreet Securities Corp. and Michael P. Harris are jointly and severally liable for and shall pay to Claimants Aaron and Jeneane Pearlman, and the NFSC/FMTC IRA FBO Aaron Pearlman, the sum of \$35,000.00 in costs;
5. The claims asserted against Respondent Stanley Clifton Brooks are dismissed and denied in their entirety;
6. The parties shall bear all other costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated herein; and,
7. Any and all relief not specifically addressed herein, including punitive or exemplary damages, is denied.

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

= \$ 375.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Brookstreet Securities Corp. is a party and the following member fees were assessed:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed: None.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$ 1,125.00
Pre-hearing conference: May 21, 2003	1 session
Seven (7) Hearing sessions @ \$1,125.00	= \$ 7,875.00
Hearing Dates: January 13, 2004	1 session
July 6, 2004	2 sessions
July 7, 2004	2 sessions
July 8, 2004	2 sessions
Total Forum Fees	= \$ 9,000.00

The Panel has assessed \$9,000.00 of the forum fees jointly and severally to Respondents Brookstreet Securities Corp. and Michael P. Harris.

FEE SUMMARY

Claimants Aaron Pearlman, Jeneane Pearlman, NFSC/FMTC IRA FBO Aaron Pearlman and NFSC/FMTC IRA FBO Jeneane Gartner Pearlman are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Less payments	= \$ 1,575.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,200.00

Respondent Brookstreet Securities Corp. is solely liable for:

Member Fees	= \$ 5,750.00
Less payments	= \$ 3,000.00
Balance Due NASD Dispute Resolution	= \$ 2,750.00

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NASD Dispute Resolution
Arbitration No. 02-06622
Award Page 5

Respondents Brookstreet Securities Corp. and Michael P. Harris are jointly and severally liable for:

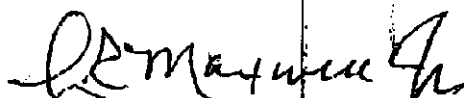
Forum Fees	= \$ 9,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 9,000.00

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

ARBITRATION PANEL

Lawrence R. Maxwell, Jr., Esq. - Public Arbitrator, Presiding Chairperson
Jack K. Lovette - Public Arbitrator
Phillip Lee Scheldt, Ph.D - Non-Public Arbitrator

Concurring Arbitrators' Signatures



Lawrence R. Maxwell, Jr., Esq.
Public Arbitrator, Presiding Chairperson

7-27-04


Signature Date

Jack K. Lovette
Public Arbitrator

Signature Date

Phillip Lee Scheldt, Ph.D
Non-Public Arbitrator

Signature Date

7/30/04 

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 02-06622

Award Page 5

Respondents Brookstreet Securities Corp. and Michael P. Harris are jointly and severally liable for:

Forum Fees	= \$ 9,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 9,000.00

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ARBITRATION PANEL

Lawrence R. Maxwell, Jr., Esq. - Public Arbitrator, Presiding Chairperson

Jack K. Lovette - Public Arbitrator

Phillip Lee Scheldt, Ph.D - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Lawrence R. Maxwell, Jr., Esq.
Public Arbitrator, Presiding Chairperson



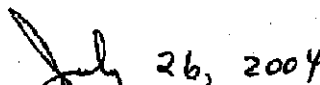
Jack K. Lovette
Public Arbitrator

Phillip Lee Scheldt, Ph.D
Non-Public Arbitrator

7/30/04 

Date of Service (For NASD Dispute Resolution office use only)

Signature Date

 July 26, 2004
Signature Date

Signature Date

NASD Dispute Resolution
Arbitration No. 02-06622
Award Page 5

Respondents Brookstreet Securities Corp. and Michael P. Harris are jointly and severally liable for:

Forum Fees	= \$ 9,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 9,000.00

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Concurring Arbitrators' Signatures

Lawrence R. Maxwell, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Jack K. Lovette
Public Arbitrator

Signature Date


Phillip Lee Scheldt, Ph.D
Non-Public Arbitrator

7/29/04
Signature Date

7/30/04 
Date of Service (For NASD Dispute Resolution office use only)