

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Johnny J. Torrez and Sylvia A. Torrez

and

Case Number: 04-06327
Hearing Site: Houston, Texas

Names of Respondent

Brookstreet Securities Corporation

NATURE OF DISPUTE

Customers v. Member Firm

REPRESENTATION OF PARTIES

Johnny J. Torrez and Sylvia A. Torrez ("Claimants") were represented by Steven D. Urban, Esq. and David E. Dunham, Esq., Taylor & Dunham, L.L.P., Austin, Texas.

Brookstreet Securities Corporation ("Brookstreet") was represented by John Courtade, Esq., Law Offices of John Courtade, Austin, Texas and H. Thomas Fehn, Esq., Fields, Fehn & Sherwin, Los Angeles, California.

CASE INFORMATION

The Statement of Claim was filed on or about September 3, 2004. The Submission Agreement of Claimants, Johnny J. Torrez and Sylvia A. Torrez, was signed on or about October 25, 2004. Claimants' First Amended was filed on or about July 22, 2005. Claimants' Second Amended Statement of Claim was filed on or about January 24, 2006.

A Statement of Answer was filed by Respondent, Brookstreet Securities Corporation, on or about January 28, 2005. The Submission Agreement of Respondent, Brookstreet Securities Corporation, was signed on or about December 13, 2004. Brookstreet's Response to Claimants' First Amended Statement of Claim was filed on or about September 2, 2005.

Brookstreet's Motion to Strike was filed on or about January 27, 2005.

Claimant's Response to Brookstreet's Motion to Strike was filed on or about February 14, 2005.

Claimant's Motion for Leave to file their Second Amended Statement of Claim was filed on or about January 20, 2006.

Brookstreet's Response to Claimants' Motion for Leave was filed on or about January 31, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: Control Person Liability Under the Texas Act; common law indemnity; independent violations of Texas Securities Act; violations of the Federal Securities Laws; negligence; negligent misrepresentations; breach of fiduciary duties; common law fraud; constructive fraud; fraud by non-disclosure; statutory fraud; violation of the Texas Deceptive Trade Practices Act; breach of contract; and respondeat superior/agency/vicarious liability. The causes of action related to the recommendations and purchase of various stocks including American Eagle, Broadcom, Ciena Corp., Columbia Sport, Daktronics Inc. and Fossil Inc. Claimants alleged that Respondents recommended unsuitable investments that lacked appropriate diversification of asset allocation. Claimants also alleged that Brookstreet failed to supervise, broker Chris Cornett and failed to disclose a deposit and then sudden withdrawal to Mr. Cornett, of the pension funds.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Mr. Torrez failed to state a claim under the Texas Securities Act of the Texas Deceptive Trade Practices Act; and a broker is not a fiduciary under Texas law unless a discretionary account is involved.

RELIEF REQUESTED

Claimants requested an award in the amount of \$1,500,000.00 in their initial Statement of Claim, plus punitive damages, interest and attorneys' fees and other relief the Panel deemed just and proper. On July 22, 2005, Claimants filed a First Amended Statement of Claim, amending their actual damages to \$1,000,000.00.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about February 17, 2006, the Panel entered an order granting Claimants' Motion for Leave to File their Second Statement of Claim.

At the hearing, the Panel denied Brookstreet's Motion to Strike.

At the hearing, the Panel denied Brookstreet's Motion to Strike, the testimony of Jerry Ludwig, an expert witness.

On or about August 5, 2004, the parties stipulated to a Panel of three public arbitrators.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent, Brookstreet Securities Corporation, is liable for and shall pay to Claimants, Johnny J. Torrez and Sylvia A. Torrez, the sum of \$204,800.00 in compensatory damages;
- 2) Respondent, Brookstreet Securities Corporation, is liable for and shall pay to Claimants, Johnny J. Torrez and Sylvia A. Torrez, interest at the rate of 6% per annum on the above-stated sum from and including March 1, 2003 through and until the award is paid in full pursuant to the Texas Securities Act;
- 3) Respondent, Brookstreet Securities Corporation, is liable for and shall pay to Claimants, Johnny J. Torrez and Sylvia A. Torrez, the sum of \$81,920.00 in attorneys' fees pursuant to the Texas Securities Act;
- 4) Respondent, Brookstreet Securities Corporation, is liable for and shall pay to Claimants, Johnny J. Torrez and Sylvia A. Torrez, the sum of \$18,525.00, as costs; and
- 5) Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 500.00

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 at the time of the events giving rise to the dispute. In this matter, the member firm is Brookstreet Securities Corporation.

Member surcharge = \$2,800.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$5,000.00

Forum Fees and Assessments

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

One (1) Decision on discovery-related motion on the papers
with (3) three arbitrators @ \$600.00 = \$ 600.00
Respondent submitted (1) discovery-related motion

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00
Pre-hearing conference: June 13, 2005 1 session

Six (6) Hearing sessions x \$1,200.00 = \$7,200.00
Hearing Dates: March 27, 2006 2 sessions
March 28, 2006 2 sessions
March 29, 2006 2 sessions

Total Forum Fees = \$9,000.00

The Arbitration Panel has assessed \$9,000.00 of the forum fees to Brookstreet Securities Corporation.

Fee Summary

Claimants, Johnny J. Torrez and Sylvia A. Torrez, are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 1,700.00
Refund due to Claimants	= \$ 1,200.00

Respondent, Brookstreet Securities Corporation, is liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 9,000.00
Total Fees	= \$17,550.00
Less payments	= \$ 8,550.00
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

Lynne M. Gomez, Esq. - Public Arbitrator, Presiding Chair
Raymond C. Kerr, Esq. - Public Arbitrator
Jeff Kilgore, Esq. - Public Arbitrator

Concurring Arbitrators:

/s/ Lynne M. Gomez, Esq.
Lynne M. Gomez, Esq.
Public Arbitrator, Presiding Chair

04/07/06
Signature Date

/s/ Raymond C. Kerr, Esq.
Raymond C. Kerr, Esq.
Public Arbitrator

04/07/06
Signature Date

/s/ Jeff Kilgore, Esq.
Jeff Kilgore, Esq.
Public Arbitrator

04/10/06
Signature Date

04/10/06
Date of Service (For NASD office use only)

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NASD Dispute Resolution
Arbitration No. 04-05327
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