

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

The Sheets Living Trust u/a dtd 4/04/90, Claimant v. Torrey Pines Securities, Inc. and William F. Gunderson, Respondents

Case Number: 05-00825

Hearing Site: San Diego, California

Nature of the Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Arthur S. Leider
Investors Arbitration Specialists, Inc.
San Diego, California

For Respondents:

William F. Gunderson
In Propria Persona and as Party
Representative
Carlsbad, California

CASE INFORMATION

Statement of Claim filed: February 14, 2005

Uniform Submission Agreement signed by Dale Sheets, Trustee: February 10, 2005

Claimant's Uniform Submission Agreement signed by Monica Kile Sheets, Trustee:
February 11, 2005

Joint Statement of Answer filed by Respondents: April 28, 2005

Respondent Torrey Pines Securities, Inc.'s Uniform Submission Agreement signed:
April 13, 2005

Respondent William F. Gunderson's Uniform Submission Agreement signed: April 15, 2005

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unsuitability, misrepresentation, fraud, and failure to supervise. Claimant's allegations involved transactions in an account over which Respondent Gunderson was given discretionary trading authority and related to Respondents' alleged failure to diversify, resulting in the over-concentration of the account in "high risk telecommunications and technology stocks". Claimant also alleged that Respondent Gunderson said that stop losses had been employed to protect the account against loss when, in fact, none had been employed.

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

RELIEF REQUESTED

Claimant requested \$262,669.00 in compensatory damages, \$200,000.00 in punitive damages, pre- and post-judgment interest, and costs.

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

OTHER ISSUES CONSIDERED AND DECIDED

On February 10, 2005, Dale Sheets, Trustee, Monica Kile Sheets, Trustee and Claimant's counsel signed a Waiver Agreement on Claimant's behalf, expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver[s] of the Claimant[s] shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

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) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted, including Claimant's request for punitive damages, 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

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

Member Surcharge = \$1,700.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$2,750.00

Total Member Fees = \$5,200.00

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 Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: December 19, 2005 1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$2,250.00
Pre-hearing conferences: July 14, 2005 1 session
February 3, 2006 1 session

Three (3) Hearing sessions @ \$1,125.00/session = \$3,375.00
Hearings: February 7, 2006 2 sessions
February 8, 2006 1 sessions

Total Forum Fees = \$6,075.00

1. The Panel assessed \$3,037.50 of the forum fees to Claimant The Sheets Living Trust u/a dtd 4/04/90.
2. The Panel assessed \$3,037.50 of the forum fees jointly and severally to Respondents Torrey Pines Securities, Inc. and William F. Gunderson.

Fee Summary

1. Claimant The Sheets Living Trust u/a dtd 4/04/90 is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,037.50
Total Fees	= \$ 3,337.50
Less payments	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 1,912.50

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

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Torrey Pines Securities, Inc. and William F. Gunderson are charged jointly and severally with the following fees and costs:


Forum Fees	= \$ 3,037.50
Balance Due NASD Dispute Resolution	= \$ 3,037.50

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

<i>Yale H. Smulyan, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Evelyn R. Wiggins, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Alfred E. Monahan</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures


Yale H. Smulyan, Esq.
Chair, Public Arbitrator

02 / 10 / 06
Signature Date

Evelyn R. Wiggins, Esq.
Public Arbitrator

Signature Date

Alfred E. Monahan
Non-Public Arbitrator

Signature Date

February 10, 2006
Date of Service

NASD Dispute Resolution
Arbitration No. 05-00825
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Non-Public Arbitrator

FEB 10, 2006
Signature Date

February 10, 2006
Date of Service