

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

George A. Youngman

and

95-01912

Name of Respondent

Gregory D. Weinstein
Brookstreet Securities Corp.
Portfolio Management Consultants, LTD.
Stanley C. Brooks

REPRESENTATION OF PARTIES

George A. Youngman ("Claimant") was represented by Thomas A. Polich, Esq., Denver, Colorado.

Gregory D. Weinstein ("Respondent Weinstein") did not appear at the hearing of this matter.

Brookstreet Securities Corp. ("Respondent Brookstreet") and Stanley C. Brooks ("Respondent Brooks") were represented by Gregory J. Sherwin, Esq. and H. Thomas Fehn, Esq., Fields Fehn & Sherwin, Los Angeles, California.

Portfolio Management Consultants, LTD. ("Respondent PMC") was represented by David A. Zisser, Esq., Berliner Zisser Walter & Gallegos, Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about April 19, 1995. Amended Statement of Claim was filed on or about May 2, 1995. Submission Agreement of Claimant George A. Youngman was signed on April 12, 1995.

Respondent Gregory D. Weinstein did not file an Answer or any other responsive pleading in this matter.

Statement of Answer was filed by Respondents Brookstreet Securities Corp. and Stanley C. Brooks on or about August 30, 1995. Submission Agreement of Respondent Brookstreet Securities Corp.

was signed on July 7, 1995 by Stanley C. Brooks. Submission Agreement of Respondent Stanley C. Brooks was signed on June 6, 1995.

A letter dated June 12, 1995, declining to submit to arbitration was filed in lieu of a Statement of Answer by Respondent Portfolio Management Consultants, LTD.

HEARING INFORMATION

A pre-hearing conference was held on January 3, 1996 for one (1) session with all three arbitrators participating. The hearing was held on Monday, February 19, 1996 for two (2) sessions and Tuesday, February 20, 1996 for two (2) sessions in Denver, Colorado for a total of five (5) sessions.

CASE SUMMARY

Claimant alleged that in May, 1992, Respondent Weinstein, presented himself as a qualified Registered Investment Advisor associated with Respondents Brookstreet and PMC, approached him and offered formal investment advice and trading services. Shortly after completing a Risk Profile Client Survey under the cover and logo of Respondent PMC, Claimant was advised by Respondent Weinstein to liquidate his IRA accounts to invest in the managed portfolio at Respondent PMC. Claimant alleged that shortly thereafter, he was advised by Respondent Weinstein that Respondent PMC required a minimum investment of \$100,000 and that Claimant did not meet that threshold. Claimant alleged that Respondent was fully aware of this fact prior to recommending the liquidation of the IRA accounts. It was alleged that Respondent Weinstein endorsed an alternative investment strategy devised by him that would safely but rapidly build Claimant's assets to meet the managed account minimum of Respondent PMC. Claimant alleged that Respondent Weinstein at that time recommended that Claimant invest the entire available IRA account balances in Conversion common stock and CVD Financial Corporation bonds. Claimant specifically alleged that the actions of Respondents in this matter constituted misrepresentation; breach of contract; fraudulent inducement; breach of fiduciary duty; breach of good faith and full and fair disclosure; failure to properly supervise; unsuitable trading; and, violations of the Registered Investment Advisor Act, the Securities Act of 1933, the Securities Exchange Act of 1934, and the Colorado Securities Act.

Respondents Brookstreet and Brooks denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Claimant was a sophisticated investor who wished to invest certain assets in speculative securities. Respondents Brookstreet and Brooks also stated that the Claimant had previous experience investing in speculative investments.

RELIEF REQUESTED

Claimant requested an award against Respondents jointly and severally of at least \$46,124, plus costs and interest. Claimant also requested an award of attorneys' fees.

Respondents requested that the claims asserted against them be denied in its entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent PMC requested that it be dismissed from this proceeding. After considering the arguments of and documents presented on behalf of the parties at the hearing commencing on Monday, February 19, 1996 and the arguments presented on January 3, 1996, the undersigned arbitrators granted the request on the basis that there was no support of the existence of a relationship between Respondent PMC and Claimant George A. Youngman.

Claimant advised the panel at the hearing that Respondent Stanley Brooks was no longer a party to this arbitration.

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 the NASD.

AWARD

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

1. Respondent Brookstreet Securities, Inc. shall be and hereby is liable for and shall pay to the Claimant George A. Youngman the sum of **fifteen thousand five hundred sixty three dollars and thirty seven cents (\$15,563.37)**.
2. Respondent Gregory Weinstein shall be and hereby is liable for and shall pay to the Claimant George A. Youngman the sum of **forty seven thousand ninety one dollars (\$47,091)** with the right of offset against monies actually paid to the Claimant by Respondent Brookstreet.
3. Respondent Brookstreet Securities, Inc. shall be and hereby is liable for and shall pay to the Claimant George A. Youngman the sum of **one thousand one hundred ninety one dollars (\$1,191)** with interest running from January 3, 1996 till paid at the rate of 8% per annum for the postponement of the hearing caused by Mr. Fehn.
4. Respondent Brookstreet Securities, Inc. shall be and hereby is liable for and shall pay to the Claimant George A. Youngman the sum of **three thousand forty nine dollars and seventeen cents (\$3,049.17)** as interest.

5. Respondent Gregory Weinstein shall be and hereby is liable for and shall pay to the Claimant George A. Youngman the sum of nine thousand two hundred twenty six dollars and seven cents (\$9,226.07) as interest.
6. Interest at the rate of 8% per annum is awarded on the sums stated in paragraphs 1 and 2 above from and inclusive of February 21, 1996 till paid. Respondent Gregory Weinstein shall have the right of offset against any monies actually paid to the Claimant by Respondent Brookstreet.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each prehearing conference, if any. There were five (5) sessions x \$400 = \$2,000 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$120 and shall refund the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimant George A. Youngman. Respondents Brookstreet and Weinstein shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$2,000 as forum fees.

Pursuant to §45 of the NASD Code of Arbitration Procedure, the NASD shall assess the non-refundable member surcharge in the amount of \$300 against Respondent Brookstreet Securities Corporation.

The NASD shall retain postponement fees in the amount of \$400 previously deposited with the NASD by Respondent Brookstreet Securities Corporation. Fees are payable to the National Association of Securities Dealers, Inc.

/s/ James B. Eichberg
James B. Eichberg
Public Arbitrator, Presiding Chair

Dated:
April 22, 1996

/s/ Anthony J. Kohler, Esq.
Anthony J. Kohler, Esq.
Public Arbitrator

April 17, 1996

/s/ John Bush, Esq.
John Bush, Esq.
Industry Arbitrator

April 23, 1996