

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Kenneth P. Hill;
Kenneth & Dorothy Hill and Marlene Juren; and
Estate of Verlee Hill

Case Number: 99-00159

Name of the Respondents

Richard J. Zimmer;
Addison Securities Inc.; and
Brookstreet Securities Corp.

Hearing Site: Dallas, Texas

REPRESENTATION OF PARTIES

Claimants Kenneth P. Hill; Kenneth & Dorothy Hill and Marlene Juren; and the Estate of Verlee Hill, hereinafter referred to as "Claimants": Anthony Hume, Esq. of Dallas, Texas.

Respondent Richard J. Zimmer, hereinafter referred to as "Zimmer", did not appear.

Respondent Addison Securities Inc., hereinafter referred to as "Addison": Will S. Montgomery, Esq. of the firm of Jenkins & Gilchrist, located in Dallas, Texas.

Respondent Brookstreet Securities Corp., hereinafter referred to as "Brookstreet": H. Thomas Fehn, Esq. of the firm of Fields, Fehn & Sherwin, located in Los Angeles, California.

CASE INFORMATION

Statement of Claim filed: January 13, 1999.

Claimant Kenneth Hill signed the Uniform Submission Agreements: November 24, 1997.

Claimant Dorothy Hill signed the Uniform Submission Agreement: March, 25, 1999.

Claimant Marlene Juren signed the Uniform Submission Agreement: April 2, 1999.

Claimants signed their Uniform Submission Agreements: Claimants signed their Uniform Submission Agreements:

Amended Statement of Claim filed on: April 9, 1999.

Statement of Answer, Motion to Dismiss or in the Alternative for More Definite Statement filed by Respondent Addison: August 26, 1999.

Respondent Addison failed to file a signed Uniform Submission Agreement.

Claimants' Response to Addison's Motion to Dismiss or in the Alternative for More Definite Statement filed on: September 21, 1999.

Statement of Answer filed by Respondent Brookstreet: September 22, 1999.

Respondent Brookstreet signed the Uniform Submission Agreement: September 15, 1999.

Respondent Zimmer did not file a Statement of Answer or a signed Uniform Submission Agreement.

Motion to Disqualify Claimant's Attorney filed on: January 29, 2003.

Motion to Bar Testimony or Other Exhibits filed by Respondent Addison on: April 24, 2003.

Respondent Brookstreet's Motion to Dismiss and for Refund of All NASD Fees Paid to Date filed on: April 29, 2003.

Respondent Addison joined in Respondent Brookstreet's Motion to Dismiss on: April 30, 2003.

Claimant's Response to Addison's Motion to Bar Testimony and Other Exhibits filed: May 9, 2003.

Claimants' Response to Brookstreet's Motion to Dismiss filed: May 9, 2003.

Respondent Brookstreet's First Renewed Motion to Dismiss for Failure to Provide Documents and Request for Pre-hearing Conference filed: May 7, 2003.

Respondent Brookstreet's Second Renewed Motion to Dismiss for Failure to Provide Documents and Request for Pre-hearing Conference filed: May 12, 2003.

Respondent Brookstreet's Motion to Dismiss Due to the Statute of Limitations filed: May 14, 2003.

Respondent Addison joined in Respondent Brookstreet's Motion to Dismiss on: May 19, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitable investments; churning; unauthorized trading; and inadequate supervision. These causes of action resulted from the trading of risky and speculative stocks, often through use of margin accounts. In the Amended Claim, Claimant supplemented the above causes of action by asserting fraud and that Zimmer used securities from Claimants' accounts to trade for his own benefit.

Unless specifically admitted in its Answer, Respondent Addison denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The doctrines of waiver, laches and estoppel bar Claimants' claims; and
2. The statutes of limitations bar Claimants' claims.

Unless specifically admitted in its Answer, Respondent Brookstreet denied the allegations made in the Statement of Claim. Brookstreet asserted that the offending activity occurred more than four years prior to the filing of the Statement of Claim and was barred by the applicable Statute of Limitations.

RELIEF REQUESTED

Claimant requested unspecified sums of Compensatory Damages.

Respondents Brookstreet and Addison both requested that the claims be dismissed in their entirety and that they be awarded their costs and attorneys' fees expended in defending this arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimants, the undersigned Panel determined that Respondent Zimmer was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Furthermore, Respondent Zimmer did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

On April 23, 2003, the Panel denied Respondents' Motion to Disqualify Claimants' Attorney.

On May 6, 2003, the Panel denied Brookstreet's Motion to Dismiss and for Refund of All NASD Fees Paid to Date and Addison's Motion to Bar Testimony and Other Exhibits.

On May 8, 2003, the Panel denied Respondents' Request for a Pre-Hearing conference to request dismissal for failure to produce documents.

On or about May 15, 2003, the Panel again denied Respondents' Renewed Motions to Dismiss and the Motion to Bar Testimony filed by Respondent Addison. In addition, the Panel held that they would consider any objections to evidence and documents for failure to comply with discovery and Rule 10321 would be considered at hearing. In addition, the Panel requested briefing on the issue of the Statute of Limitations.

At the beginning of the hearing, the Panel heard argument on Respondents' Motion to Dismiss Pursuant to the Statute of Limitations. After hearing the arguments presented by the parties, the panel granted the Motion to Dismiss as to all Respondents.

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. The Respondents' Motion to Dismiss is granted and the claims asserted by Claimants are hereby dismissed with prejudice;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those specifically enumerated herein; and,
3. Any and all relief not specifically addressed herein, including punitive [treble] 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	= \$ 250.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, both Addison Securities Inc. and Brookstreet Securities Corp. are a party and the following member fees are assessed against both firms:

Member surcharge	= \$ 1,200.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 2,000.00

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) Hearing session @ \$600.00	= \$ 600.00
Hearing Date: <u>May 27, 2003</u> <u>1 session</u>	
Total Forum Fees	= \$ 600.00

The Panel has assessed \$600.00 of the forum jointly and severally to Claimants Kenneth P. Hill; Kenneth & Dorothy Hill and Marlene Juren; and the Estate of Verlee Hill.

SEE SUMMARY

Claimants Kenneth P. Hill; Kenneth & Dorothy Hill and Marlene Juren; and the Estate of Verlee Hill are jointly and severally liable for:

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Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 850.00
Less payments	= \$ 850.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Addison Securities Inc., is solely liable for:

Member Fees	= \$ 3,800.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 2,000.00

Respondent Brookstreet Securities Corp. is solely liable for:

Member Fees	= \$ 3,800.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 2,000.00

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

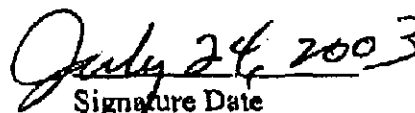
ARBITRATION PANEL

Arch B. Gilbert, Esq. - Public Arbitrator, Presiding Chairperson
Jonathan A. Pace, Esq. - Public Arbitrator
Jack R. Settles - Non-Public Arbitrator

Concurring Arbitrators' Signatures



Arch B. Gilbert, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

Jonathan A. Pace, Esq.
Public Arbitrator

Signature Date

Jack R. Settles
Non-Public Arbitrator

Signature Date

7/28/03  Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 99-00159
Award Page 5

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<u>Less payments</u>	<u>= \$ 850.00</u>
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Respondent Brookstreet Securities Corp. is solely liable for:

Member Fees	= \$ 3,800.00
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,000.00

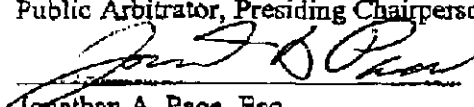
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Jonathan A. Pace, Esq. - Public Arbitrator
Jack R. Settles - Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson



Jonathan A. Pace, Esq.
Public Arbitrator

Signature Date


Signature Date

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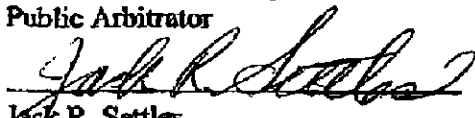
Concurring Arbitrators' Signatures

Arch B. Gilbert, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Jonathan A. Pace, Esq.
Public Arbitrator

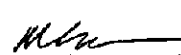
Signature Date



Jack R. Settles
Non-Public Arbitrator

7-23-03

Signature Date

7/28/03  Date of Service (For NASD Dispute Resolution office use only)