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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

FILED

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 vs.

15 BROOKSTREET SECURITIES CORP.
16 and STANLEY C. BROOKS,

17 Defendants.
18
19
20

Case No.

DOC (ANX)

SACV09-01431
COMPLAINT FOR VIOLATIONS
OF THE FEDERAL SECURITIES
LAWS

21 Plaintiff Securities and Exchange Commission ("Commission") alleges as
22 follows:

23 SUMMARY

24 1. The Commission brings this action to restrain and permanently enjoin
25 Brookstreet Securities Corp. ("Brookstreet") and Stanley C. Brooks, its former
26 president and CEO, from violating the antifraud provisions of the federal securities
27 laws.

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1 2. Brookstreet and Brooks committed securities fraud involving the sale
2 of unsuitable Collateralized Mortgage Obligations (“CMOs”) to retail customers.
3 From 2004 to 2007, Brooks helped create, promote, and facilitate an investment
4 program, the “CMO Program,” through which Brookstreet and its registered
5 representatives improperly sold risky, illiquid CMOs to retail customers with
6 conservative investment goals, including retirees and retirement accounts. More
7 than 1,000 Brookstreet customers invested approximately \$300 million through the
8 CMO Program.

9 3. In early 2007, CMO prices dropped precipitously, resulting in
10 significant losses in the accounts of Brookstreet’s CMO Program customers and
11 margin calls for those customers who had invested on margin. Due to the level of
12 margin that Brookstreet had implemented in some of its CMO Program customers’
13 accounts, many of these customers did not have sufficient equity to cover the
14 margin calls. In an effort to secure equity for these accounts and prevent
15 Brookstreet from falling under its net capital requirements, Brooks directed and
16 oversaw the liquidation of CMO Program accounts, which resulted in the
17 unauthorized sale of fully paid-for CMOs from the cash-only accounts of customers,
18 causing some of them to realize substantial losses on their CMO investments.

19 4. Despite these actions, in June 2007 Brookstreet failed to meet its net
20 capital requirements and ceased operations.

21 5. Many of Brookstreet’s CMO Program customers lost their savings,
22 their homes, and/or their ability to retire or stay retired. In addition, some
23 margined CMO Program customers ended up with negative account balances.

24 6. By engaging in the conduct described in this Complaint, Defendants have
25 violated Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C.
26 § 77q(a), and Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”),
27 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5. Unless
28 enjoined, Defendants are likely to commit such violations in the future.

1 7. The Commission seeks a judgment from the Court: (a) enjoining
2 Defendants from engaging, directly or indirectly, in further violations of
3 Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and
4 Rule 10b-5 thereunder; (b) ordering Brooks to disgorge, with prejudgment interest,
5 the amount by which he was unjustly enriched as a result of his violations of the
6 federal securities laws; and (c) ordering Brooks to pay civil monetary penalties
7 pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section
8 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

9 **JURISDICTION AND VENUE**

10 8. This Court has jurisdiction over this action pursuant to Sections 20(b),
11 20(d)(1), and 22(a) of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d)(1), and
12 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e), and 27 of the Exchange Act,
13 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e), and 78aa. Defendants have, directly
14 or indirectly, made use of the means or instrumentalities of interstate commerce, of
15 the mails, or of the facilities of a national securities exchange in connection with
16 the transactions, acts, practices, and courses of business alleged in this Complaint.

17 9. Venue is proper in this district pursuant to Section 22(a) of the
18 Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act,
19 15 U.S.C. § 78aa, because certain of the transactions, acts, practices, and courses
20 of conduct constituting violations of the federal securities laws occurred within this
21 district, and Defendants reside and/or are located in this district.

22 **DEFENDANTS**

23 10. **Stanley C. Brooks**, age 61, resides in San Clemente, California.
24 Brooks founded Brookstreet and was its president and CEO from January 1990
25 through June 2007. He holds Series 1, 3, 4, 40, 63, and 65 securities licenses.
26 From August 2007 through September 2008, Brooks was a registered
27 representative with Wedbush Morgan Securities, Inc., a registered broker-dealer
28 and investment adviser. Brooks is currently associated with Veterinarians

1 Financial Services Inc., an unregistered investment adviser owned by Brooks.

2 11. Brooks was sanctioned by state securities regulators and FINRA ten
3 times between 1992 and 2007, resulting in cumulative fines of greater than
4 \$400,000 and suspensions of more than three years. These sanctions stemmed
5 from charges of securities violations against Brooks that included failure to
6 supervise, failure to establish and maintain supervisory procedures, failure to
7 conduct branch examinations, dishonest and unethical conduct, and flawed
8 registration filings. Most recently, the Financial Industry Regulatory Authority
9 (“FINRA”) suspended Brooks from serving in a supervisory capacity between
10 March 6, 2006, and May 4, 2008, and fined him \$95,000 for, among other things,
11 failure to commence and complete compliance inspections.

12 12. **Brookstreet Securities Corp.**, a California corporation, was a dually
13 registered broker-dealer and investment adviser headquartered in Irvine,
14 California. Brookstreet was owned and controlled by Brooks and the Brooks
15 Family Trust. Brookstreet operated numerous branch offices nationwide, including
16 one in Boca Raton, Florida. In June 2007, Brookstreet failed to meet its net capital
17 requirements and ceased operations.

18 **THE FRAUDULENT ACTIVITIES**

19 **A. Brookstreet’s CMO Program**

20 13. In January 2004, in Irvine, California, Brooks hired a CMO trader and
21 his staff (the “CMO Bond Group”) to start Brookstreet’s CMO Program, which
22 allowed Brookstreet’s registered representatives to invest their customers’ funds in
23 CMOs. The CMO Bond Group managed the CMO Program out of a branch office
24 located in Boca Raton, Florida. Beginning in 2004, Brooks and Brookstreet
25 promoted the CMO Bond Group and the CMO Program to Brookstreet’s registered
26 representatives nationwide.

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1 14. Between 2004 and mid-2007, the CMO Bond Group was the conduit
2 for all CMO Program trades at Brookstreet; participating registered representatives
3 could only trade CMOs in and out of their customers' accounts by funneling the
4 trades through the CMO Bond Group. The CMO Bond Group's head trader
5 selected CMOs for purchase or sale, traded them with traders at other institutions,
6 and made CMO recommendations to registered representatives. Brookstreet did
7 not permit discretionary accounts, so customer approval was required to perform
8 each CMO trade.

9 15. Between 2004 and mid-2007, the CMO Bond Group traded
10 Brookstreet's customers' CMOs with other entities in institutional-sized blocks
11 called "round lots" (*i.e.*, blocks of a CMO valued at least \$1 million). However, the
12 CMO Bond Group generally split these round lot positions of CMOs into smaller,
13 "odd lots" for distribution into individual CMO Program customers' accounts.

14 16. Between 2004 and mid-2007 Brookstreet traded approximately \$5.2
15 billion in CMOs for its CMO Program customers.

16 **B. Brookstreet Sold Retail Customers Unsuitable CMOs**

17 17. Between 2004 and mid-2007, through its CMO Program, Brookstreet
18 and its registered representatives sold risky, illiquid Program CMOs to retail
19 customers who sought safe, secure, liquid investments that were suitable for
20 retirees, retirement accounts, and investors with conservative investment goals.

21 18. To keep track of CMO Program customers, Brookstreet maintained a
22 comprehensive spreadsheet (the "CMO Customer Spreadsheet") that cataloged the
23 characteristics of participating customers, including the type of account (*e.g.*,
24 individual, IRA, trust, corporate), and the customer's income, net worth,
25 investment objectives, and use of margin. This spreadsheet showed that
26 approximately 93% of the CMO Program's accounts were held in the names of
27 retail customers. In addition, the CMO Customer Spreadsheet showed that, of the
28 1,185 accounts in the CMO Program: (1) approximately 23% were Individual

1 Retirement Accounts (“IRAs”); (2) approximately 17% had investment objectives
2 that included preservation of capital; and (3) approximately 43% of account
3 owners had incomes under \$100,000.

4 19. Despite these customer characteristics, Brookstreet’s CMO Program
5 overwhelmingly involved risky types of CMOs. Indeed, approximately 90% of the
6 CMOs traded in Brookstreet’s CMO Program were inverse floating rate CMOs
7 (“Inverse Floaters”), interest only CMOs (“IOs”), and inverse interest only CMOs
8 (“Inverse IOs”) (collectively, “Program CMOs”). These three types of CMOs are
9 among the riskiest available and are generally not suitable for retail investors.
10 Indeed, in 1993, FINRA issued a notice to its members stating that Inverse Floaters
11 and IOs were “only suitable for sophisticated investors with a high-risk profile.”
12 *Notice to Members 93-73: Member’s Obligations to Customers When Selling*
13 *Collateralized Mortgage Obligations (CMOs)* (“FINRA Notice 93-73”).

14 20. Program CMOs were unsuitable for many of Brookstreet’s CMO
15 Program customers because they had substantial risks to yield and principal,
16 liquidity problems, limited or no government guarantees, and margin problems.

17 21. **Substantial Risks to Yield and Principal:** Changes in interest rates
18 and/or prepayment speeds could result in large fluctuations in Program CMO
19 prices, the early maturation of IOs, and a loss of principal for Program CMOs
20 bought at a premium or sold prior to the date they were to mature.

21 22. **Liquidity Problems:** Program CMOs were largely illiquid because
22 customers held them in odd lots, rather than institutional-sized round lots. Market
23 trades of odd lots were more difficult to make and generally resulted in
24 substantially lower prices than round lot trades. Moreover, CMO Program
25 customers could only re-aggregate their odd lot positions into the easier to sell
26 round lots if enough other Brookstreet customers holding the exact same Program
27 CMO agreed. The liquidity problems were further exacerbated because, although
28 there was “a sizable secondary market for CMOs generally, there [wa]s less of a

1 market for the more risky and complex [types of CMOs]” traded in the CMO
2 Program. FINRA Notice 93-73.

3 23. **Limited or No Government Guarantees:** In the context of Program
4 CMOs, a government guarantee means only that the government will ensure the
5 payment of principal at the “par value” of the security, which is usually \$100. It
6 does not guarantee the payment of interest or any premium over par value paid by
7 the customer. Only Ginnie Mae-issued Program CMOs carried a government
8 guarantee. All other Program CMOs carried no government guarantee, although
9 some were guaranteed by government-sponsored entities (*i.e.*, Fannie Mae and
10 Freddie Mac). Approximately 13% of Program CMOs were guaranteed solely by
11 private institutions.

12 24. **Margin Problems:** Brookstreet and its registered representatives
13 heavily margined some CMO Program customers’ accounts (up to a ten to one
14 margin to equity ratio), despite the fact that even government-backed CMOs could
15 and did suffer price drops and receive margin calls. Moreover, no government
16 guarantee protected customers from the early maturation of an IO (*i.e.*, when an IO
17 expires and stops paying interest due to early prepayments on the underlying
18 mortgages), so buying an IO on margin posed an added risk.

19 **C. Brookstreet’s Registered Representatives Made Material**
20 **Misrepresentations to CMO Program Customers**

21 25. Between 2004 and 2007, throughout the United States, Brookstreet’s
22 registered representatives made false and misleading statements to CMO Program
23 customers in connection with the offer, sale, or purchase of Program CMOs.

24 26. Between 2004 and 2007, throughout the United States, Brookstreet’s
25 registered representatives misrepresented to CMO Program customers that
26 Program CMOs: (1) were guaranteed by the United States government;
27 (2) presented low or no risk to principal; (3) were easily sold and/or could be
28 liquidated within thirty to ninety days; and (4) were safe and appropriate for

1 retirees, retirement accounts, and/or investors with conservative investment
2 objectives.

3 27. Between 2004 and 2007, the Brookstreet registered representatives
4 who made these misrepresentations included William Betta, Jr., Travis A. Branch,
5 James J. Caprio, Troy L. Gagliardi, Russell M. Kautz, Barry M. Kornfeld, Shane
6 A. McCann, Clifford A. Popper, Alfred B. Rubin, and Steven I. Shrago.

7 **D. Brooks' Participation in the CMO Program**

8 **1. Brooks' Knowledge that Unsuitable CMOs Were Being Sold to**
9 **Retail Customers and that Registered Representatives Made**
10 **Material Misrepresentations about Program CMOs**

11 28. As early as 2004, in Irvine, California, Brooks knew, or was reckless
12 in not knowing, that Brookstreet and its registered representatives were selling
13 unsuitable CMOs to retail customers.

14 29. In 2004, in Irvine, California, Brooks knew that Brookstreet and its
15 registered representatives were selling Program CMOs to retail customers.

16 30. In 2005, in Irvine, California, Brooks received from Brookstreet's
17 compliance department a copy of *FINRA Notice 93-73*, which described Program
18 CMOs as suitable only for sophisticated investors with a high-risk profile.

19 31. In 2005, in Irvine, California, Brooks was told that Program CMOs
20 were unsuitable for individual customers.

21 32. In 2005, in Irvine, California, Brooks received information that the
22 CMO Program was trading risky CMOs that could become worthless overnight
23 (*i.e.*, IOs) and was further informed that there was an inherent risk in distributing
24 odd lot positions of Program CMOs to customers.

25 33. In 2005, in Irvine, California, Brooks was told that CMO Program
26 accounts were not properly balanced to dampen the volatility and pricing issues
27 associated with Program CMOs.

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1 34. In 2005, in Irvine, California, Brooks reviewed a spreadsheet that
2 monitored the level of margin in all Brookstreet customers' accounts.

3 35. In 2006, in Irvine, California, Brooks learned that Brookstreet's
4 registered representatives made material misrepresentations about the safety of
5 Program CMOs to CMO Program customers.

6 36. In 2006, in Irvine, California, three of Brookstreet's institutional bond
7 traders met with Brooks and told him that:

8 (a) Program CMOs were very dangerous, illiquid, inappropriate for
9 any retail investor, and had unreliable pricing;

10 (b) the CMO Program was a "scam" because it is not possible to
11 have such high returns using CMOs without substantially
12 increasing the risk; and

13 (c) the CMO Bond Group's head trader was deceiving Brookstreet's
14 registered representatives regarding the CMO Program's safety,
15 suitability, and liquidity.

16 One of the institutional bond traders followed up this meeting with a letter
17 reiterating these points and asking "from a moral standpoint" that Brooks not let
18 the CMO Program continue.

19 37. In 2006, in Irvine, California, Brooks learned that IOs could mature
20 early without paying back the investor's principal.

21 38. In 2006, in Irvine, California, Brooks received numerous emails from
22 registered representatives stating that Program CMOs were illiquid and that the
23 CMO Bond Group would not execute sell requests. Brooks also was told that the
24 CMO Bond Group was purchasing volatile CMOs that were depreciating rapidly.

25 **2. Brooks' Role in the CMO Program**

26 39. Although Brooks knew, or was reckless in not knowing, that
27 Brookstreet and its registered representatives were (a) selling Program CMOs to
28 retail customers for whom they were not suitable and (b) making material

1 misrepresentations about Program CMOs to customers, he continued to promote and
2 facilitate the program, including by helping to increase the margin limits for CMOs.

3 40. Brooks helped create the CMO Program in January 2004, when he
4 personally hired the CMO Bond Group's head trader. He did so over the objections
5 of two Brookstreet principals and despite concerns raised by a Brookstreet
6 registered representative about the head trader's itinerant employment history.
7 Similarly, Brooks proceeded with the CMO Program despite a July 2004 email from
8 a registered representative warning that the head trader had misrepresented his
9 experience with CMOs in a CMO Program conference call with Brookstreet's
10 registered representatives and that Program CMOs were complex and should only
11 be traded by registered representatives with experience in similar products.

12 41. Between 2004 and 2007, Brooks promoted the CMO Program to
13 Brookstreet's registered representatives. For example, Brooks endorsed the CMO
14 Bond Group by permitting them to solicit Brookstreet's registered representatives
15 through official Brookstreet channels, including: firm-wide email advertisements
16 by the CMO Bond Group for the CMO Program; pages on Brookstreet's internal
17 website about the CMO Bond Group and the CMO Program; and periodic
18 conference calls by the CMO Bond Group to discuss the merits of the CMO
19 Program. Moreover, Brooks set up breakout sessions at Brookstreet's annual
20 broker conferences so that the CMO Bond Group could make presentations to
21 Brookstreet's registered representatives.

22 42. In addition, between 2004 and 2007, Brooks facilitated the CMO
23 Program's operations. For example, Brooks allowed the CMO Bond Group to use
24 Brookstreet's proprietary account to purchase round lots of Program CMOs. This
25 permitted the CMO Bond Group to purchase large positions of Program CMOs
26 prior to receiving individual customers' approval. Brooks also permitted
27 Brookstreet's registered representatives to use "accommodation accounts" for
28 customers who wanted to sell their odd lot positions immediately, outside of the

1 CMO Bond Group's normal process. These accounts were necessary to
2 accommodate such customers because sales of odd lot CMO positions were
3 difficult to make and resulted in below-market prices. Through accommodation
4 accounts, Brookstreet concealed from CMO Program customers the intrinsic
5 liquidity problems associated with Program CMOs by holding illiquid and/or odd
6 lot CMOs until they could be more easily and profitably sold to the market or
7 cross-traded with another CMO Program customer.

8 43. Additionally, between 2004 and 2007, Brooks convinced
9 Brookstreet's clearing firm to reduce its margin requirements for Program CMOs.
10 Brooks' efforts made it possible for CMO Program customers to purchase more
11 Program CMOs with less equity, putting their principal at greater risk. The
12 increased leverage in customer accounts that resulted from Brooks' actions
13 ultimately led to CMO Program customers losing substantial amounts of money
14 when CMO prices fell and the clearing firm issued margin calls.

15 44. Despite his knowledge that Brookstreet was selling unsuitable CMOs
16 to retail customers, Brooks' only ameliorative action was to include more detailed
17 disclosures on some Program CMO trade confirmations. Specifically, in March
18 2006, Brooks directed his staff to append a disclosure to all CMO trade
19 confirmations stating the type of CMO purchased and providing a description of
20 the risks associated with the CMO. In practice, however, Brookstreet failed to
21 include these bolstered trade confirmation disclosures on all Program CMO trades.

22 45. Brookstreet is equally culpable for Brooks' acts because his mental
23 state is imputed to it, as an entity that he controlled.

24 **3. Brooks Was a Controlling Person at Brookstreet**

25 46. Brooks owned and controlled Brookstreet and was its president and
26 CEO from 1990 to 2007. In these positions, Brooks had power and control over
27 the CMO Bond Group, the CMO Program, and the Brookstreet registered
28 representatives who participated in the program. Indeed, Brooks was a "hands-on"

1 manager at Brookstreet, and he had an active role in creating, promoting, and
2 facilitating the CMO Program. Although FINRA suspended Brooks from serving
3 in a supervisory capacity starting in March 2006, he remained Brookstreet's owner,
4 president, and CEO. Moreover, Brooks continued to perform supervisory acts
5 during his suspension, including directing unauthorized trading in CMO Program
6 customers' cash-only accounts (*i.e.*, the accounts of customers who had no margin
7 agreement with Brookstreet or its clearing firm).

8 **E. Brooks Directed Unauthorized Trading in Brookstreet's CMO Program**
9 **Customers' Cash-Only Accounts**

10 47. In early 2007, the value of the Program CMOs in Brookstreet's CMO
11 Program customers' accounts declined precipitously. As a result, many customers
12 who had invested on margin started to receive margin calls. Because Brookstreet
13 had heavily leveraged some CMO Program customers' accounts, many of these
14 customers did not have sufficient equity to cover the margin calls.

15 48. By June 2007, a continuing decline in the value of Brookstreet's CMO
16 Program customers' accounts led Brookstreet's clearing firm to request that
17 Brookstreet liquidate positions in margined CMO Program customers' accounts to
18 cover outstanding and impending margin calls. From at least January 2004 through
19 June 2007, Brookstreet had an agreement with a clearing broker-dealer to execute
20 all of Brookstreet's securities transactions and maintain its customer accounts.
21 Under the terms of its clearing agreement, Brookstreet was ultimately liable to its
22 clearing broker-dealer for any margin losses incurred by its customers. Brooks
23 instructed the CMO Bond Group to start liquidating Program CMOs and ordered the
24 head trader to split with Brookstreet any losses incurred. In response to this
25 demand, the entire CMO Bond Group resigned from Brookstreet on June 5, 2007.

26 49. After the CMO Bond Group resigned, in an effort to cover the losses
27 incurred from margin calls related to the CMO Program and to satisfy
28 Brookstreet's net capital requirement, Brooks initiated a process to liquidate

1 Program CMOs. Between June 5, 2007 and June 19, 2007, in Irvine, California,
2 Brooks directed and oversaw the liquidation of Program CMOs from CMO
3 Program customers' accounts.

4 50. During this time, while Brooks was in control of the liquidation
5 process, Brookstreet executed unauthorized trades by selling Program CMOs,
6 without customer notice or consent, from customers' cash-only accounts. Brooks
7 not only knew that Brookstreet was conducting forced sales of fully paid-for
8 Program CMOs from cash-only accounts, he approved and directed the process.
9 Brooks understood that these liquidations were necessary to aggregate the odd lots
10 of Program CMOs held by margined customers' into round lots that could be sold
11 to the market. As a result of these forced CMO liquidations, Brookstreet's cash-
12 only CMO Program customers lost money because the sales occurred at below
13 market prices and/or because customers could have held some Program CMOs
14 until they matured and paid par value.

15 51. On June 21, 2007, despite efforts to cover the losses in margin
16 accounts, Brookstreet fell below its net capital requirements and ceased operations.
17 Brookstreet's CMO Program customers lost millions of dollars in account value
18 and approximately 100 margined CMO Program customers were left with "deficit
19 accounts" (*i.e.*, accounts that not only lost all principal, but ended up with negative
20 equity such that the account owner owed Brookstreet's clearing firm money)
21 totaling over \$36 million.

22 **FIRST CLAIM FOR RELIEF**

23 **Fraud in the Offer or Sale of Securities**

24 **Violations of Section 17(a) of the Securities Act**

25 **(Against Both Defendants)**

26 52. The Commission realleges and incorporates by reference
27 paragraphs 1 through 51 above.

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1 53. Defendants, and each of them, by engaging in the conduct described
2 above, directly or indirectly, in the offer or sale of securities by the use of means or
3 instruments of transportation or communication in interstate commerce or by use
4 of the mails:

- 5 a. with scienter, employed devices, schemes, or artifices to
6 defraud;
- 7 b. obtained money or property by means of untrue statements of a
8 material fact or by omitting to state a material fact necessary in
9 order to make the statements made, in light of the
10 circumstances under which they were made, not misleading; or
- 11 c. engaged in transactions, practices, or courses of business which
12 operated or would operate as a fraud or deceit upon the
13 purchaser.

14 54. By engaging in the conduct described above, Defendants violated, and
15 unless restrained and enjoined will continue to violate, Section 17(a) of the
16 Securities Act, 15 U.S.C. § 77q(a).

17 **SECOND CLAIM FOR RELIEF**

18 **Fraud in Connection With the Purchase or Sale of Securities**

19 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**
20 **(Against Both Defendants)**

21 55. The Commission realleges and incorporates by reference paragraphs
22 1 through 51 above.

23 56. Defendants, and each of them, by engaging in the conduct described
24 above, directly or indirectly, in connection with the purchase or sale of a security,
25 by the use of means or instrumentalities of interstate commerce, of the mails, or of
26 the facilities of a national securities exchange, with scienter:

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- 1 a. employed devices, schemes, or artifices to defraud;
- 2 b. made untrue statements of a material fact or omitted to state a
- 3 material fact necessary in order to make the statements made, in
- 4 the light of the circumstances under which they were made, not
- 5 misleading; or
- 6 c. engaged in acts, practices, or courses of business which
- 7 operated or would operate as a fraud or deceit upon other
- 8 persons.

9 57. By engaging in the conduct described above, Defendants violated, and

10 unless restrained and enjoined will continue to violate, Section 10(b) of the

11 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R.

12 § 240.10b-5.

13 **THIRD CLAIM FOR RELIEF**

14 **Controlling Person Liability Under Section 20(a) of the Exchange Act**

15 **(Against Both Defendants)**

16 58. The Commission realleges and incorporates by reference paragraphs

17 1 through 51 above.

18 59. Alternatively, Defendant Brooks is, or was at the time the acts and

19 conduct set forth herein were committed, directly or indirectly, a person who

20 controlled Brookstreet and those of its registered representatives who sold Program

21 CMOs to Brookstreet customers for whom they were not suitable, in violation of

22 Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder,

23 17 C.F.R. § 240.10b-5.

24 60. Defendant Brookstreet is, or was at the time the acts and conduct set

25 forth herein were committed, directly or indirectly, a person who controlled those

26 of its registered representatives who sold Program CMOs to Brookstreet customers

27 for whom they were not suitable, in violation of Section 10(b) of the Exchange

28 Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

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V.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VI.

Grant such other and further relief as this Court may determine to be just and necessary.

Dated: December 8, 2009

Respectfully submitted,



Molly M. White
Morgan B. Ward Doran
Attorneys for Plaintiff
Securities and Exchange Commission