## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

SONIA TORRES, Individually and as	§	
Representative of a Class of Participants	§	
and Beneficiaries on Behalf of the	§	
Greystar 401(k) Plan,	§	
	§	·
Plaintiff,	§	
	§	
v.	§	SA-19-CA-510-FB (HJB)
	§	
GREYSTAR MANAGEMENT	§	
SERVICES, L.P.,	§	
	§	
Defendant.	§	
	ORDER	

Before the Court is Defendant's Motion to Compel Individual Arbitration and Dismiss the Complaint (Docket Entry 16). Pretrial matters in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1). (See Docket Entry 20.) A hearing was held on the motion on October 25, 2019.

In accordance with the Court's ruling at the hearing, it is hereby **ORDERED** that Defendant's Motion to Compel Individual Arbitration and Dismiss the Complaint (Docket Entry 16) is **GRANTED IN PART** and **HELD IN ABEYANCE IN PART**, as follows:

- (1) Defendant's request to compel individual arbitration is **GRANTED**, as follows:
  - (a) This case is referred to arbitration, for determination of the following issues:
    - (i) Whether any claim in this lawsuit is excluded from the Greystar Mutual Agreement to Arbitrate Claims ("the Agreement") (Docket Entry 16-1, at 9-14), because it is based on "stock option plans, team member pension and/or welfare benefit plans [which contain] some

form of a grievance, arbitration, or other procedure for the resolution of disputes under the plan," as provided in Section A of the Agreement (see id. at 10);

- (ii) Whether Plaintiff's individual representative claim on behalf of the Greystar 401(k) Plan under 29 U.S.C. § 1132(a)(2) is waived under Section B of the Agreement (Docket Entry 16-1, at 11); and
- (iii) Whether waiver of an individual representative claim under Section

  B is an issue to be determined by the arbitrator, rather than the Court,

  under section C of the Agreement (see Docket Entry 16-1, at 11).
- (b) This case is also referred to arbitration for ruling on the individual claim, if any, that Plaintiff has raised on her own behalf as a beneficiary of the Greystar 401(k) Plan, separate and apart from her claim on behalf of the Plan.

  (See Docket Entry 1, at 22 (wherein Plaintiff demands relief "on behalf of the Plan and all similarly situated participants and beneficiaries of the Plan")).
- (c) This Order does not prohibit the parties from arguing during arbitration that other issues may, or must, be considered by the arbitrator.
- (2) Defendant's motion to dismiss Plaintiff's class claims is **HELD IN ABEYANCE** pending arbitration in this case.
- (3) Further proceedings in this case are **STAYED** pending arbitration in this case.

SIGNED on October 25, 2019.

Henry J. Bemporad

United States Magistrate Judge