
Stipulated Award

NASD

In the Matter of the Arbitration Between:

Name of the Claimant

Marc Loveman, IRA

Case Number:

00-04960

Names of the Respondents

Fahnestock & Co., Inc. and Lee Hartzmark

Hearing Site:

Boca Raton, FL

REPRESENTATION OF PARTIES

For Marc Loveman, IRA, hereinafter referred to as "Claimant": Jeffrey M. Herman, Esq., Herman & Mermelstein, P.A., Miami, FL.

For Respondent Fahnestock & Co., Inc. ("Fahnestock"): Eric J. Shames, Esq., Chief Legal Officer, Fahnestock & Co., Inc., New York, NY.

For Respondent Lee Hartzmark ("Hartzmark"): Howard A. Tescher, Esq., Kipnis, Tescher, Lippman & Valinsky, Fort Lauderdale, FL.

CASE INFORMATION

Statement of Claim filed on or about: November 8, 2000.

Amended Statement of Claim filed on or about: May 3, 2001.

Claimant signed the Uniform Submission Agreement: November 6, 2000.

Claimant signed an amended Uniform Submission Agreement: April 24, 2001.

Respondents' Motion to Dismiss and Answer filed on or about: February 6, 2001.

Respondents' Statement of Answer filed on or about: July 6, 2001.

Respondent Fahnestock signed the Uniform Submission Agreement: July 17, 2001.

Respondent Hartzmark signed the Uniform Submission Agreement: August 10, 2001.

Respondents' Amended Statement of Answer filed on or about: August 31, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; common law fraud; negligence; negligent supervision; violation of Ohio Revised Code, Section 1707.42, and violation of the NASD Rules of Fair Practice. The causes of action relate to Respondents' unauthorized and misleading trading of various securities in Claimant's IRA account, including, but not limited to, the following securities: Crager Industries, Inc., Sun Microsystems, J&B Management Company, Fox Manor Associates, Churchill Manor Associates, Cornell Capital Fund, Banyan Hotel Investments, Powerhouse Corp., Waxman Industries, and Marbledge Group.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim, and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$5,000,000.00, interest, costs of arbitration, losses compensable under Ohio Revised Code, Section 1707.42, punitive damages, attorney's fees, and any other such relief deemed just and proper.

Respondents requested that Claimant's claims be dismissed in their entirety, and that Claimant be assessed costs and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about February 6, 2001, Respondents filed with NASD a Motion to Dismiss and Answer, which requested that all claims asserted by Claimant, in his individual capacity, be dismissed because the securities at issue were held in Claimant's IRA account, not in an individual account. As such, Respondents alleged that the custodian or trustee of Claimant's IRA account should assert any claims regarding the aforementioned securities. Thereafter, on or about May 3, 2001, Claimant filed with NASD an Amended Statement of Claim on behalf of his IRA accounts managed by Respondents.

On or about February 13, 2002, the parties informed NASD that they had settled the case in a mediation session held on February 6, 2002.

On or about August 8, 2002, Respondent Hartzmark filed with NASD a letter that requested that the undersigned arbitrators (the "Panel") enter a stipulated award expunging all references to this matter from Respondent Hartzmark's registration records maintained by the NASD Central Registration Depository ("CRD"). On or about August 12, 2002, Claimant filed with NASD a letter confirming that as part of the parties' settlement agreement, Claimant does not oppose Respondent Hartzmark's request for expungement.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, and Respondent Hartzmark's request for expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Hartzmark's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Hartzmark must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 600.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Respondent Fahnestock is assessed:

Member surcharge = \$ 2,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$ 4,500.00

Adjournment Fees

Adjournment fees were not assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with a single arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$ 1,200.00 = \$ 1,200.00

Pre-hearing conference: August 20, 2001 1 session

Total Forum Fees = \$ 1,200.00

1. The Panel has assessed \$ 400.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 400.00 of the forum fees to Respondent Fahnestock.
3. The Panel has assessed \$ 400.00 of the forum fees to Respondent Hartzmark.

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Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Administrative costs were not incurred in this matter.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 400.00
Total Fees	= \$ 1,000.00
Less payments	= \$ 1,000.00
Balance Due NASD	= \$ 0.00

2. Respondent Fahnestock is solely liable for:

Member Fees	= \$ 7,600.00
Forum Fees	= \$ 400.00
Total Fees	= \$ 8,000.00
Less payments	= \$ 8,000.00
Balance Due NASD	= \$ 0.00

3. Respondent Hartzmark is solely liable for:

Forum Fees	= \$ 400.00
Total Fees	= \$ 400.00
Less payments	= \$ 400.00
Balance Due NASD	= \$ 0.00

ARBITRATION PANEL

Michael Lukasievich, Esq.	-	Public, Presiding Chairperson
Sterling F. Tremayne	-	Public Arbitrator
Shirley Sachs	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Michael Lukasievich, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

NASD

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/s/

Sterling F. Tremayne
Public Arbitrator

08/21/02

Signature Date

/s/

Shirley Sachs
Non-Public Arbitrator

08/22/02

Signature Date

08/28/02

Date of Service (For NASD office use only)

NASD.

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Michael Lukasievich, Esq.

Sterling F. Tremayne

Shirley Sachs

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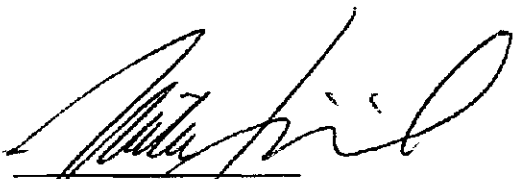
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Public, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

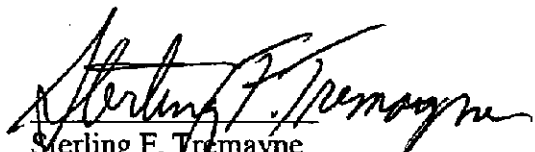

Michael Lukasievich, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

NASD

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Sterling F. Tremayne
Public Arbitrator


Signature Date

Shirley Sachs
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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NASD

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Sterling F. Tremayne
Public Arbitrator

Signature Date

Shirley Sachs
Shirley Sachs
Non-Public Arbitrator

8-22-02
Signature Date

Date of Service (For NASD office use only)