

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Thomas M. Lippert v. Keith Lesser and Fahnestock & Co., Inc.

Case Number: 01-03155

Hearing Site: Seattle, Washington

REPRESENTATION OF PARTIES

For Claimant:

Fredrick D. Huebner, Esq.
Cablé, Langenbach, Kinerk & Bauer, LLP
Seattle, Washington

For Respondents:

Eric J. Shames, Esq.
Fahnestock & Co. Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: June 14, 2001

Claimant's Uniform Submission Agreement signed: May 2, 2001

Joint Statement of Answer filed by Respondents, Keith Lesser and Fahnestock & Co., Inc.:
November 19, 2001

Respondent Keith Lesser Uniform Submission Agreement signed: Not Filed

Respondent Fahnestock & Co., Inc. Uniform Submission Agreement signed: Not Filed

CASE SUMMARY

Claimant alleged churning, unauthorized, unsuitable trading, fraudulent misrepresentation and nondisclosure, failure to exercise due care, violation of Washington consumer protection act.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted several affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$600,000.00 and interest thereon at a rate of 12%.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

Respondents Fahnestock & Co. Inc. and Keith Lesser did not file with the NASD Dispute Resolution, properly executed submission agreements; however, all said Respondents are required to submit to arbitration and, Fahnestock & Co. Inc. and Keith Lesser, having answered the claim and having appeared and testified at the hearing, all said Respondents are bound by the determination of the Panel on all issues submitted.

On September 5, 2002 Respondents submitted a Motion to Postpone the Arbitration. Claimant submitted a response on September 9, 2002. After consideration of all submissions the Panel denied the Motion to Postpone.

On October 10, 2002 Claimant submitted a post-hearing request for award of attorney's fees. Respondents submitted an objection to the request on October 15, 2002.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Keith Lesser shall pay Claimant Thomas Lippert compensatory damages of \$10,000.00 on Claimant's negligence claim.
- 2) Respondent Fahnestock & Co. Inc., shall pay Claimant Thomas Lippert compensatory damages of \$40,000.00 on Claimant's negligence claim.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm, Fahnstock & Co. Inc., is a party and the following fees are assessed:

Member Surcharge	= \$2,000.00
Pre-hearing Processing Fee	= \$ 600.00
Hearing Processing Fee	= \$3,500.00
Total Member Fees	= \$6,100.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Arbitrator/Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conference: March 20, 2002	1 session
April 23, 2002	1 session
Five (5) Hearing sessions @ \$1,200.00/session	= \$ 6,000.00
Hearing: October 1, 2002	2 sessions
October 2, 2002	2 sessions
October 3, 2002	1 session
Total Forum Fees	= \$ 8,400.00

1. The Panel assessed \$ 4,200.00 of the forum fees to Claimant Thomas Lippert.
2. The Panel assessed \$ 4,200.00 of the forum fees to Respondent Fahnstock & Co. Inc.

Fee Summary

1. Claimant Thomas Lippert is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,575.00
Less payments	= \$ (1,575.00)
Balance Due NASD Dispute Resolution	= \$ 3,000.00

2. Respondent Fahnstock & Co. Inc. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 10,300.00
Less payments	= \$ (6,100.00)
Balance Due NASD Dispute Resolution	= \$ 4,200.00


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

ARBITRATION PANEL

Katherine Hendricks, Esq.
James A. Vawter
Bonny Kathleen Riggs

Public Arbitrator, Presiding Chair
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures


KATHERINE HENDRICKS, ESQ.
Chair, Public Arbitrator

10/25/02
Signature Date

JAMES A. VAWTER
Public Arbitrator

Signature Date

BONNY KATHLEEN RIGGS
Industry Arbitrator

Signature Date

10/28/02
Date of Service

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- *Public Arbitrator*
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