

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

William Lindsay (Claimant) v. Fahnestock & Co., Inc., Josephthal & Co., Inc., and Kevin P. Saia (Respondents)

Case Number: 02-04653

Hearing Site: New York, New York

Nature of the Dispute: Customer v. Members and Associated Person

REPRESENTATION OF PARTIES

Claimant William Lindsay ("Lindsay") referred to as "Claimant": Nicholas J. Guiliano, Esq., Philadelphia, PA.

Respondents Fahnestock & Co., Inc. ("Fahnestock"), Josephthal & Co., Inc. ("Josephthal"), and Kevin P. Saia ("Saia") hereinafter collectively referred to as "Respondents": Joseph DaProcida, Esq., Josephthal & Co., Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: August 5, 2002.

Claimant signed the Uniform Submission Agreement: July 27, 2002.

Joint Statement of Answer filed by Respondents on or about: December 11, 2002.

Fahnestock did not sign the Uniform Submission Agreement.

Josephthal did not sign the Uniform Submission Agreement.

Saia did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: violation of the anti-fraud provisions of the federal securities laws; churning; misrepresentations and omission of material facts; suitability; unauthorized trading; fraudulent use of a margin account; common law fraud; false and deceptive practices; breach of fiduciary duty; violation of the New Jersey Securities Act; and failure to supervise. The causes of action relate to shares of common stock.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$234,000.00; lost income under the "well managed portfolio" theory of recovery; punitive damages in accordance with Rule 10330(e); interest; reasonable attorneys' fees and cost of suit; and any other relief that is just, fair, and equitable.

Respondents requested dismissal of the Statement of Claim in its entirety and that costs, expenses, and disbursements be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

Prior to the hearing, the parties fully and finally settled all claims by and between them. Therefore, the parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The listed parties have amenablely resolved their differences and requested this Stipulated Award.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Kevin P. Saia's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Saia must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The Parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below.

4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$300.00
--------------------------	------------

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 person at the time of the events giving rise to the dispute. In this matter, Josephthal & Co., Inc. is a party.

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Adjournment Fees

The following adjournment fees are assessed:

March 24, 25, and 26, 2004, adjournment requested by Claimant	= Waived
March 24, 25, and 26, 2004, adjournment requested by Josephthal	= Waived

Forum Fees and Assessments

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

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: March 27, 2003 1 session	
Total Forum Fees	= \$1,125.00

1. The Panel has assessed \$281.25 of the forum fees against Claimant.
2. The Panel has assessed \$281.25 of the forum fees against Fahnstock.
3. The Panel has assessed \$281.25 of the forum fees against Josephthal.
4. The Panel has assessed \$281.25 of the forum fees against Saia.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 281.25
Total Fees	= \$ 581.25
<u>Less payments</u>	<u>= \$4,049.63</u>
Refund Due to Claimant	= \$3,468.38

2. Fahnestock is solely liable for:

Forum Fees	= \$ 281.25
Total Fees	= \$ 281.25
<u>Less payments</u>	<u>= \$ 499.62</u>
Refund Due Fahnestock	= \$ 218.37

3. Josephthal is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$ 281.25
Total Fees	= \$5,481.25
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 281.25

4. Saia is solely liable for:

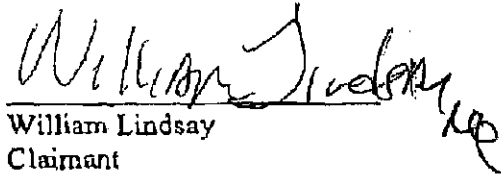
Forum Fees	= \$ 281.25
Total Fees	= \$ 281.25
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 281.25

All balances are due and payable to NASD Dispute Resolution

NASD REGULATION

NASD Dispute Resolution
Arbitration No. 02-04653
Award Page 5 of 6

Parties' Signatures


William Lindsay
Claimant

7-20-04
Signature Date

Fahnestock & Co., Inc.
Respondent

Signature Date

Josephthal & Co., Inc.
Respondent

Signature Date

Kevin P. Sais
Respondent

Signature Date

NASD Dispute Resolution
Arbitration No. 02-04653
Award Page 5 of 6

Parties' Signatures

William Lindsay
Claimant

Signature Date

Andrew Kohler
Fahnestock & Co., Inc.
Respondent

7/26/04
Signature Date

Andrew Kohler
Josephthal & Co., Inc.
Respondent

7/26/04
Signature Date

Kevin P. Saia
Respondent

8/5/04
Signature Date

ARBITRATION PANEL

Jeffrey Alan Helewitz, Esq.
Seymour Stanton, CPA
Mark H. Mantell

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Jeffrey Alan Helewitz, Esq.
Public Arbitrator, Presiding Chair

20 AUGUST 2004

Signature Date

Seymour Stanton, CPA
Public Arbitrator

Signature Date

Mark H. Mantell
Non-Public Arbitrator

Signature Date

August 30, 2004

Date of Service (For NASD office use only)

02-04653-17


ARBITRATION PANEL

Jeffrey Alan Helewitz, Esq.	-	Public Arbitrator, Presiding Chair
Seymour Stanton, CPA	-	Public Arbitrator
Mark H. Mantell	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jeffrey Alan Helewitz, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Seymour Stanton, CPA
Public Arbitrator

August 13, 2004

Signature Date

Mark H. Mantell
Non-Public Arbitrator

Signature Date

August 30, 2004

Date of Service (For NASD office use only)

ARBITRATION PANEL

Jeffrey Alan Helewitz, Esq.	-	Public Arbitrator, Presiding Chair
Seymour Stanton, CPA	-	Public Arbitrator
Mark H. Mantell	-	Non-Public Arbitrator

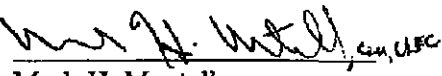
Concurring Arbitrators' Signatures

Jeffrey Alan Helewitz, Esq.
Public Arbitrator, Presiding Chair

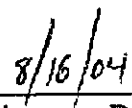
Signature Date

Seymour Stanton, CPA
Public Arbitrator

Signature Date



Mark H. Mantell
Non-Public Arbitrator



Signature Date

August 30, 2004

Date of Service (For NASD office use only)