

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Fahnestock & Co., Inc. (Claimant) v. Chester Li (Respondent)

Case Number: 02-06248

Hearing Site: New York, New York

Nature of the Dispute: Member vs. Associated Person

REPRESENTATION OF PARTIES

Claimant Fahnestock & Co., Inc. ("Fahnestock") hereinafter referred to as Claimant":
Evelyn Bukchin, Esq., Fahnestock & Co., Inc., New York, NY.

Respondent Chester Li ("Li") hereinafter referred to as "Respondent": Neal Brickman,
Esq., The Law Offices of Neal Brickman, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 17, 2002.

Reply to the Counterclaims of Li filed on or about: October 17, 2003.

Claimant signed the Uniform Submission Agreement: October 17, 2002.

Statement of Answer and Counterclaim filed by Respondent on or about: December 17,
2002.

Respondent signed the Uniform Submission Agreement: December 17, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: failure and refusal to repay monies
loaned to Respondent pursuant to the terms of a Promissory Note.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the
Statement of Claim and asserted various affirmative defenses. In his Counterclaim,
Respondent asserted the following causes of action: breach of employment contract; and
wrongful termination.

RELIEF REQUESTED

Claimant requested the following:

- A. Actual damages consisting of the principal amount due and owed under the
Note in the amount of \$300,000.00;

- B. Interest at 8% from 8/20/02 through the date of the arbitration award;
- C. NASD filing fees in the amount of \$3,825.00; and
- D. Attorneys' fees related to the cost of collection in the amount of \$3,000.00

In its Reply to the Counterclaim, Claimant requested that Respondent's Counterclaims be dismissed and that costs, expenses, and disbursements be assessed against him.

Respondent requested an award in his favor and against Claimant as follows:

- 1. Dismissing Fahnestock's claims in their entirety;
- 2. Declaring the Note forgiven and repaid in full;
- 3. Directing Fahnestock to release to Li his investments that are being held by it;
- 4. Awarding Li damages in an amount to be determined at the hearing arising from Fahnestock's wrongful termination of his employment;
- 5. Awarding Li the costs and disbursements incurred by him in connection with this matter, including his reasonable attorneys' fees; and
- 6. Awarding Li such other and further relief from Fahnestock as this Court deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent requested admission of 1099 Forms it received from Claimant. The Panel, on Claimant's original motion, denied their admissibility since they hadn't been produced in discovery. On Respondent's motion to reconsider, these documents were admitted and counsel was allowed to argue their legal import.

In addition, at the hearing, Respondent moved that the testimony of Alfred Lowenthal as to his policy of not offering registered representatives employment contracts and the employee handbook statements to that effect be struck. The Panel struck testimony as to the written policy in the employee handbook, which had not been produced during discovery.

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

AWARD

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

- 1. Respondent is liable for and shall pay to the Claimant compensatory damages in the amount of \$300,000.00 due on the Promissory Note, plus interest at the rate of 8% per annum from August 20, 2002 until the date of payment of the Award.

2. Respondent is liable for and shall pay to the Claimant attorneys' fees in the amount of \$3,000.00 in accordance with the Promissory Note (Claimant's Exhibit C-1).
3. Respondent is liable for and shall pay to the Claimant the sum of \$1,000.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
4. The Counterclaims of Respondent are denied in their entirety.
5. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$1,000.00
Counterclaim filing fee	= \$ 250.00

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. Accordingly, Fahnstock & Co., Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: June 25, 2003 1 session	

Three (3) Hearing sessions @ \$1,125.00	= \$3,375.00
Hearing Dates: November 19, 2003 2 sessions	
November 20, 2003 1 session	

Total Forum Fees	= \$4,500.00
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1. The Panel has assessed \$4,500.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$6,200.00
<u>Less payments</u>	<u>= \$7,325.00</u>
Refund Due to the Claimant	= \$1,125.00

As stated in the "Award" section above, Respondent is liable for and shall reimburse the Claimant for the \$1,000.00 filing fee.

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 250.00
<u>Forum Fees</u>	<u>= \$4,500.00</u>
Total Fees	= \$4,750.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$4,750.00

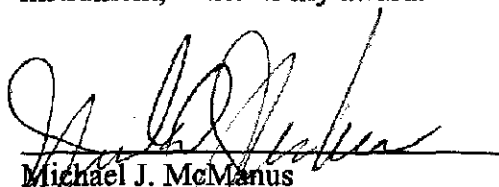
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Michael J. McManus	-	Non-Public Arbitrator, Presiding Chair
Ivan W. Harper, CPA	-	Non-Public Arbitrator
Jean Margo Reid, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Michael J. McManus
Non-Public Arbitrator, Presiding Chairperson

11/28/2003

Signature Date

Ivan W. Harper, CPA
Non-Public Arbitrator

Signature Date

Jean Margo Reid, Esq.
Non-Public Arbitrator

Signature Date

December 12, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Michael J. McManus	-	Non-Public Arbitrator, Presiding Chair
Ivan W. Harper, CPA	-	Non-Public Arbitrator
Jean Margo Reid, Esq.	-	Non-Public Arbitrator

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Michael J. McManus
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Ivan W. Harper, C.P.A.
Ivan W. Harper, CPA
Non-Public Arbitrator

11/30/03
Signature Date

Jean Margo Reid, Esq.
Non-Public Arbitrator

Signature Date

December 12, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Non-Public Arbitrator

12 - 11 - 03
Signature Date

December 12, 2003
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