

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Thomas William LaGanga, Executor of the Estate of Eva Buzzi Walker (Claimant) v.  
Fahnestock & Co., Inc. and Dino Carlo Casali (Respondents)

Case Number: 02-06758

Hearing Site: New York, New York

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Nature of the Dispute: Customer vs. Member and Associated Person

**REPRESENTATION OF PARTIES**

Claimant Thomas William LaGanga, Executor of the Estate of Eva Walker Buzzi ("LaGanga") hereinafter referred to as "Claimant": Lawrence W. Andrea, Esq., Lawrence W. Andrea, Attorney at Law, Danbury, CT.

Respondents Fahnestock & Co., Inc. ("Fahnestock") and Dino Carlo Casali ("Casali") hereinafter collectively referred to as "Respondents": Evelyn Bukchin, Esq. and Margarita L. Landaburu, Esq., Fahnestock & Co., Inc., New York, NY. Previously represented by: Angela A. Turiano, Esq., Fahnestock & Co., Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: November 7, 2002.

Claimant's Objection to the Motion to Dismiss filed on or about: January 13, 2003.

Claimant signed the Uniform Submission Agreement: November 1, 2002.

Joint Statement of Answer and Motion to Dismiss filed by Respondents on or about: December 24, 2002.

Fahnestock signed the Uniform Submission Agreement: December 31, 2002.

Casali signed the Uniform Submission Agreement: January 2, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to execute. Claimant's claim involved unspecified stock certificates.

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

**RELIEF REQUESTED**

Claimant requested actual damages in the amount of \$75,406.58; pre-judgment interest

on \$75,406.58 calculated from August 1, 2002 through the date of the award and post-judgment interest from the date of the award to date of payment; costs of suit including, without limitation, forum fees, session hearing fees, witness production fees, and other case-related costs; reasonable attorneys' fees; and such other and further relief as the arbitration panel finds reasonable and just.

Respondents requested that the Statement of Claim be dismissed in all respects, and attorneys' fees and disbursements be assessed against him.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents made a motion to continue the hearing to a later date. After due consideration, the Panel denied said motion.

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, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to the Claimant compensatory damages in the amount of \$50,000.00.
2. 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	= \$225.00
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#### **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, Fahnestock & Co., Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

**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:

Three (3) Pre-hearing sessions with Panel @ \$750.00 = \$2,250.00

Pre-hearing conferences: July 10, 2003 1 session  
September 16, 2003 1 session  
October 7, 2003 1 session

Six (6) Hearing sessions @ \$750.00 = \$4,500.00

Hearing Dates: November 11, 2003 2 sessions  
November 12, 2003 2 sessions  
November 13, 2003 2 sessions

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Total Forum Fees = \$6,750.00

1. The Panel has assessed \$3,375.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,375.00 of the forum fees jointly and severally against Respondents.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	<u>= \$3,375.00</u>
Total Fees	= \$3,600.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$2,625.00

2. Fahnestock is solely liable for:

<u>Member Fees</u>	<u>= \$3,550.00</u>
Total Fees	= \$3,550.00
<u>Less payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$3,375.00</u>
Total Fees	= \$3,375.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$3,375.00

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

Francis J. Pavetti, Esq.	-	Public Arbitrator, Presiding Chair
Barbara M. Kislak, Esq.	-	Public Arbitrator
John J. Bucko	-	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.

\_\_\_\_\_  
Francis J. Pavetti, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Barbara M. Kislak, Esq.  
Public Arbitrator

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John J. Bucko  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

December 26, 2003

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

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Barbara M. Kislak, Esq.	-	Public Arbitrator
John J. Bucko	-	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.



Francis J. Pavetti, Esq.  
Public Arbitrator, Presiding Chairperson

December 23, 2003  
Signature Date

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Barbara M. Kislak, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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John J. Bucko  
Non-Public Arbitrator

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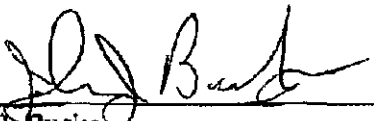
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Public Arbitrator, Presiding Chairperson

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Signature Date

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Barbara M. Kislak, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
John J. Bucko  
Non-Public Arbitrator

12/22/2003  
\_\_\_\_\_  
Signature Date

December 26, 2003

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)