
Award
NASD DISPUTE RESOLUTION

In the Matter of the Arbitration Between:

Name of the Claimant
Fahnestock & Co., Inc.

Case Number: 03-02711

Name of the Respondent
Charles A. Busbee

Hearing Site: Atlanta, GA

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

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

Charles A. Busbee ("Busbee"), hereinafter referred to as "Respondent", did not appear in this matter.

CASE INFORMATION

Statement of Claim filed on or about: April 14, 2003.

Claimant signed the Uniform Submission Agreement: April 11, 2003.

Respondent did not file a Statement of Answer or executed Uniform Submission Agreement.

Motion for Default Judgment filed by Claimant on or about: November 28, 2003.

CASE SUMMARY

Claimant asserted that Respondent failed to pay Claimant for a negative account balance, unpaid invoices and for sums due pursuant to a promissory note. The causes of action relate to Respondent's alleged failure to repay sums due Claimant after he terminated his employment with Claimant.

RELIEF REQUESTED

Claimant requested compensatory damages of \$57,496.17 plus pre-judgment interest, attorneys' fees of \$3,000.00, and reimbursement of NASD fees.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing, the Panel denied Claimant's Motion for Default.

Respondent Busbee did not appear at the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that

Respondent Busbee has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Busbee did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

The party present at the hearing 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 (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay Claimant compensatory damages in the sum of \$57,496.17 plus interest at the rate of 8% per annum accruing from January 3, 2004 until the date of payment of the Award.

Respondent is liable and shall pay Claimant attorneys' fees in the sum of \$3,000.00. Attorneys' fees are awarded pursuant to the employment agreement between the parties.

Respondent is liable and shall pay Claimant the sum of \$1,000.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Respondent is liable and shall pay Claimant the sum of \$3,550.00 representing reimbursement of the member fees previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein are 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
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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, Claimant is a party.

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

Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

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.

No injunctive relief fees were assessed during these proceedings.

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 the Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: October 8, 2003 1 session	
One (1) Hearing session @ \$750.00	= \$ 750.00
Hearing Date: December 3, 2003 1 session	
Total Forum Fees	= \$1,500.00

The Panel has assessed the total forum fees of \$1,500.00 to Respondent.

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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$3,550.00
Total Fees	= \$4,550.00

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<u>Less Payments</u>	<u>= \$4,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

<u>Forum Fees</u>	<u>= \$1,500.00</u>
<u>Total Fees</u>	<u>= \$1,500.00</u>
<u>Less Payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$1,500.00

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

ARBITRATION PANEL

M. Bruce Adelberg	-	Non-Public Arbitrator, Presiding Chairperson
Howard S. Levine	-	Non-Public Arbitrator
Deborah A. Jackson, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
M. Bruce Adelberg
Non-Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Howard S. Levine
Non-Public Arbitrator

Signature Date

/s/
Deborah A. Jackson, Esq.
Non-Public Arbitrator

Signature Date

December 29, 2003

Date of Service (For NASD Dispute Resolution office use only)

12/22/2003 10:35 5613614306

NASD

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Less Payments	= \$4,550.00
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Respondent is solely liable for:

Forum Fees	= \$1,500.00
Total Fees	= \$1,500.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,500.00

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Deborah A. Jackson, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

M. Bruce Adelsberg
M. Bruce Adelsberg
Non-Public Arbitrator, Presiding Chairperson

12/29/03
Signature Date

Howard S. Levine
Non-Public Arbitrator

Signature Date

Deborah A. Jackson, Esq.
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

M. Bruce Adelberg
Non-Public Arbitrator, Presiding Chairperson

Signature Date



Howard S. Levine
Non-Public Arbitrator

12/26/2003
Signature Date

Deborah A. Jackson, Esq.
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

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 Non-Public Arbitrator, Presiding Chairperson

Signature Date

Howard S. Levine
 Non-Public Arbitrator

Signature Date


Deborah A. Jackson, Esq.
 Non-Public Arbitrator

12/26/03
 Signature Date

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