

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

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In the Matter of the Arbitration Between:

Oppenheimer & Co., a Division of Fahnstock & Co., Inc., Claimant v. Craig A. Rutledge,  
Respondent

Craig A. Rutledge, Counter-Claimant v. Oppenheimer & Co., a Division of Fahnstock & Co.,  
Inc., Counter-Respondent

Craig A. Rutledge, Third-Party Claimant v. CIBC World Markets Corp. and Larry Isaacs, Third-  
Party Respondents

Case Number: 03-03265

Hearing Site: Los Angeles, California

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Nature of the Disputes:   Member v. Associated Person  
                                  Associated Person v. Member  
                                  Associated Person v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant/Counter-Respondent Oppenheimer & Co.,  
a Division of Fahnstock & Co., Inc. ("Oppenheimer"):

Theodore R. Snyder, Esq.  
Krebsbach & Snyder  
New York, New York

For Respondent/Counter-Claimant/  
Third-Party Claimant Craig A. Rutledge ("Rutledge"):

Craig A. Rutledge  
In Propria Persona  
Orange, California

For Third-Party Respondents CIBC World  
Markets Corp. ("CIBC") and Larry Isaacs ("Isaacs"):

Elizabeth H. Lindh, Esq.  
Keesal Young & Logan  
Long Beach, California

### **CASE INFORMATION**

Statement of Claim filed: April 30, 2003

Oppenheimer's Uniform Submission Agreement signed: April 30, 2003

Initial Statement of Answer, Counterclaim, and Third-Party Claim filed by Rutledge:  
October 17, 2003

Statement of Answer to Counterclaim filed by Oppenheimer: December 1, 2003

Amended Statement of Answer, Counterclaim, and Third-Party Claim filed by Rutledge:  
January 16, 2004

### **CASE SUMMARY**

Oppenheimer alleged breach of a promissory note and indebtedness.

Rutledge denied the allegations of wrongdoing set forth in the Oppenheimer's Statement of Claim and set forth various affirmative defenses.

Rutledge filed an Initial Counterclaim against Oppenheimer and an Initial Third-Party Claim against CIBC and Isaacs. On January 16, 2004, Rutledge filed an Amended Counterclaim against Oppenheimer and an Amended Third-Party Claim against CIBC and Isaacs pursuant to the Code of Arbitration Procedure Rule 10328(a). The amended claims alleged additional facts, but did not allege additional causes of action. Each claim alleged fraudulent inducement, breach of contract, and civil conspiracy.

Oppenheimer denied the allegations of wrongdoing set forth in Rutledge's Initial Counterclaim and set forth various affirmative defenses.

### **RELIEF REQUESTED**

Oppenheimer requested compensatory damages in the amount of \$171,409.02, interest of 9% per annum accrued from March 3, 2003 through the date of the arbitration award, and costs, including attorney's fees.

Rutledge's Statement of Answer requested dismissal of Oppenheimer's Statement of Claim in its entirety, and costs, including attorney's fees.

Rutledge filed an Initial and Amended Counterclaim against Oppenheimer and an Initial and Amended Third-Party Claim against CIBC and Isaacs. Rutledge's Amended Counterclaim and Third-Party Claim alleged additional facts, but did not request additional damages. Each claim requested unspecified compensatory damages, unspecified punitive damages, pre-judgment interest, and costs, including attorney's fees.

Oppenheimer requested dismissal of the Rutledge's Counterclaim in its entirety, and costs, including attorney's fees.

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

Rutledge did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim and having filed a counterclaim and third-party claim, is bound by the determination of the Panel on all issues submitted.

Neither CIBC nor Isaacs filed with NASD Dispute Resolution properly executed submission agreements or answers to Rutledge's Third-Party Claim. However, both CIBC and Isaacs are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

On July 22, 2003, Oppenheimer and its counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On February 13, 2006, Rutledge advised NASD Dispute Resolution that he had settled all of his claims with CIBC and Isaacs.

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

**AWARD**

After considering the pleading and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Rutledge shall pay the sum of \$171,409.02 to Oppenheimer as follows:
  - a) Rutledge shall direct Third-Party Respondent CIBC to pay directly to Oppenheimer all sums CIBC has agreed to pay Rutledge as a settlement payment with respect to Rutledge's Third-Party claim in this matter (the "Settlement Payment");
  - b) Rutledge shall pay to Oppenheimer no later than January 31, 2006 an amount equal to \$105,000.00 less the Settlement Payment;
  - c) Rutledge shall pay to Oppenheimer the sum of \$66,409.02 in eleven (11) equal installments, due and payable on the first of each month beginning March 1, 2006 until all outstanding sums are paid.
- 2) In the event that Rutledge fails to pay the sums as indicated in paragraph 1, Oppenheimer shall have the right to re-file its Statement of Claim in this matter without prejudice, including without limitation all claims for interest and attorney's fees.
- 3) Rutledge's claims against Oppenheimer are dismissed with prejudice.
- 4) Rutledge's claims against CIBC and Isaacs are dismissed with prejudice.
- 5) All other relief requested and 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:

Oppenheimer's Initial claim filing fee	= \$1,000.00
Rutledge's Counterclaim/Third-Party Claim filing fee	= \$ 250.00

#### **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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firms Oppenheimer & Co., a Division of Fahnestock, and CIBC World Markets Corp. are parties and the following fees are assessed to each:

Member fees assessed to Oppenheimer & Co., a Division of Fahnestock:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
<b>Total Member Fees</b>	<b>= \$5,200.00</b>

Member fees assessed to CIBC World Markets Corp.:

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,200.00</u>
<b>Total Member Fees</b>	<b>= \$4,450.00</b>

#### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postpone or settled within three (3) business days before the start of a scheduled hearing session:

Cancellation of the January 31, 2006 – February 2, 2006 hearing dates = \$ 300.00

1. The Panel assessed \$100.00 of the three-day cancellation fee to Oppenheimer & Co., a Division of Fahnestock & Co., Inc.
2. The Panel assessed \$100.00 of the three-day cancellation fee to Craig A. Rutledge.
3. The Panel assessed \$100.00 of the three-day cancellation fee jointly and severally to CIBC Global World Markets Corp. and Larry Isaacs.

**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 Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Chair @ \$450.00/session = \$ 450.00  
Pre-hearing conference: December 20, 2005 1 session

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$2,250.00  
Pre-hearing conferences: August 15, 2005 1 session  
January 27, 2006 1 session

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**Total Forum Fees = \$2,700.00**

1. The Panel assessed \$900.00 of the forum fees to Oppenheimer & Co., a Division of Fahnestock & Co., Inc.
2. The Panel assessed \$900.00 of the forum fees to Craig A. Rutledge.
3. The Panel assessed \$900.00 of the forum fees jointly and severally to CIBC Global World Markets Corp. and Larry Isaacs.

**Fee Summary**

1. Oppenheimer & Co., a Division of Fahnestock & Co., Inc., is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Three-day Cancellation Fee	= \$ 100.00
<u>Forum Fees</u>	= \$ 900.00
<b>Total Fees</b>	<b>= \$ 7,200.00</b>
Retained Deposit in Accordance with Rule 10332 (f) of the Code	= \$ 225.00
<u>Less payments</u>	<u>= \$(8,075.00)</u>
<b>Refund Due from NASD Dispute Resolution</b>	<b>= \$( 650.00)</b>

2. Craig A. Rutledge is charged with the following fees and costs:

Counterclaim/Third-Party Claim filing fee	= \$ 250.00
Three-day Cancellation Fee	= \$ 100.00
<u>Forum Fees</u>	<u>= \$ 900.00</u>
<b>Total Fees</b>	<b>= \$ 1,250.00</b>
Retained Deposit in Accordance with Rule 10332 (f) of the Code	= \$ 100.00
<u>Less payments</u>	<u>= \$( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,350.00</b>

3. CIBC Global Markets Corp. is charged with the following fees and costs:

Member Fees	= \$ 4,450.00
<u>Less payments</u>	<u>= \$(6,000.00)</u>
<b>Refund Due from NASD Dispute Resolution</b>	<b>= \$(1,550.00)</b>

4. CIBC Global Markets Corp. and Larry Isaacs are charged jointly and severally with the following fees and costs:


Three-day Cancellation Fee	= \$ 100.00
<u>Forum Fees</u>	<u>= \$ 900.00</u>
<b>Total Fees</b>	<b>= \$ 1,000.00</b>
<u>Less payments by CIBC Global Markets Corp.</u>	<u>= \$(1,000.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

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**

<b>John B. La Rue</b>	-	<b>Public Arbitrator, Presiding Chair</b>
<b>Eugene A. Taylor, Jr.</b>	-	<b>Public Arbitrator</b>
<b>David Maurer</b>	-	<b>Non-Public Arbitrator</b>

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
John B. La Rue  
Chair, Public Arbitrator

3-16-06  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Eugene A. Taylor, Jr.  
Public Arbitrator

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

\_\_\_\_\_  
David Maurer  
Non-Public Arbitrator

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

March 21, 2006  
\_\_\_\_\_  
Date of Service




**ARBITRATION PANEL**

<b>John B. La Rue</b>	-	<b>Public Arbitrator, Presiding Chair</b>
<b>Eugene A. Taylor, Jr.</b>	-	<b>Public Arbitrator</b>
<b>David Maurer</b>	-	<b>Non-Public Arbitrator</b>

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John B. La Rue  
Chair, Public Arbitrator

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Signature Date

  
Eugene A. Taylor, Jr.  
Public Arbitrator

Mar. 15, '06  
Signature Date

\_\_\_\_\_  
David Maurer  
Non-Public Arbitrator

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

March 21, 2006  
Date of Service

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<b>Eugene A. Taylor, Jr.</b>	-	<b>Public Arbitrator</b>
<b>David Maurer</b>	-	<b>Non-Public Arbitrator</b>

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John B. La Rue  
Chair, Public Arbitrator

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Signature Date

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Eugene A. Taylor, Jr.  
Public Arbitrator

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

  
\_\_\_\_\_  
David Maurer  
Non-Public Arbitrator

3/17/06  
Signature Date

March 21, 2006  
Date of Service