

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Fahenstock & Co., Inc.

and

Case Number: 03-03955
Hearing Site: Chicago, Illinois

Name of Respondent

Laura Sage

NATURE OF DISPUTE

Member v. Associated Person.

REPRESENTATION OF PARTIES

Fahnestock & Company, ("**Claimant**"), was represented by Andrew J. Kohler, Esq. and Eric J. Shames Esq. of Oppenheimer & Company, a division of Fahnestock & Co., Inc., located, in New York, New York.

Laura Sage ("**Respondent**") was represented by Robert L. Byman, Esq. of Jenner, Ulmer, & Berne LLC.

CASE INFORMATION

The Statement of Claim was filed on or about June 2, 2003. The Submission Agreement of Claimant was signed on or about May 30, 2003.

Statement of Answer and Counterclaim was filed by Respondent on or about July 31, 2003. The Submission Agreement of Respondent was signed on or about July 24, 2003.

Claimant's Reply to the Counterclaim was filed on September 30, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: failure to repay a promissory note upon resignation of employment with Claimant. The causes of action relate to Respondent's Employment Agreement and Promissory Note of April 2002.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the

Statement of Claim and asserted following: When Ms. Sage resigned from her employment in April of 2003, she was entitled by the express terms of her employment to retain the outstanding balance of a "loan" which was not really a loan but rather a signing bonus. This signing bonus was made to induce her to become employed by CIBC.

In her Counterclaim, Ms. Sage, alleged that she is entitled to Commissions due, but not paid in the amount of \$3,000.00.

In its Response to the Counterclaim, Fahnestock stated that the \$3000.00 commission will be offset by Fahnestock and applied towards the Claimant's balance due on her note.

RELIEF REQUESTED

Claimant requested an award in the amount of \$632,033.05.

Respondent requested that the claims asserted against her be denied in their entirety, that she be entitled to keep the amount in controversy and that Claimant be required to pay her \$3,000.00 in commissions. She also sought to be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) The Claims asserted by Claimant Fahnestock & Company are dismissed and denied in their entirety. Claimant, Fahnestock & Co., Inc., shall allow Respondent Laura Sage to keep all amounts outstanding on the "forgivable loan" in the sum of \$650,00.00 in compensatory damages;
- 2.) Respondents, Fahnestock & Co., Inc., is liable for and shall pay to Claimant, Laura Sage, the sum of \$3,000.00 for unpaid commissions plus 21% interest which shall begin to accrue on the date of her termination from Fahnestock & Co., and shall cease to accrue when they are paid in full;
- 3.) That other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and,

- 4.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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	= \$1,250.00
Counterclaim filing fee	= \$ 50.00

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, the member firm is Fahnestock.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with the Panel x \$1,200.00	= \$1,200.00
Pre-hearing conference: January 7, 2004 1 session	
Two (2) Hearing sessions x \$1,200.00	= \$2,400.00
Hearing Dates: October 20, 2004 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$3,600.00

The Arbitration Panel has assessed \$1,800.00 of the forum fees to Claimant Fahnestock & Co., Inc.

The Arbitration Panel has assessed \$1,800.00 of the forum fees to Respondent Laura Sage.

Fee Summary

Claimant, Fahnestock & Co., Inc., is liable for:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$10,050.00
Less payments	= \$ 9,450.00
Balance due to NASD Dispute Resolution	= \$ 600.00

Respondent Laura Sage is liable for:

Counterclaim filing fees	=\$ 50.00
Forum Fees	=\$1,800.00
Total Fees	=\$ 1,850.00
Less Payments	= \$ 1,075.00
Balance due to NASD Dispute Resolution	= \$ 775.00

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

ARBITRATION PANEL

Robert William Haggarty, III - Non-Public Arbitrator, Presiding Chair
Susan K. Franz - Non-Public Arbitrator
Robert E. Waite - Non-Public Arbitrator

Concurring Arbitrators:

Robert William Haggarty, III
Public Arbitrator, Presiding Chair

Signature Date

Susan K. Franz
Public Arbitrator

Signature Date

Dissenting Arbitrator:

Robert E. Waite

Signature Date

Non-Public Arbitrator

November 17, 2004
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-03855
Award Page 4 of 5

Fee Summary

Claimant, Fahnestock & Co., Inc., is liable for:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,800.00
<u>Total Fees</u>	<u>= \$ 10,050.00</u>
<u>Less payments</u>	<u>= \$ 9,450.00</u>
Balance due to NASD Dispute Resolution	= \$ 600.00

Respondent Laura Sage is liable for:

Counterclaim filing fees	= \$ 50.00
Forum Fees	= \$ 1,800.00
<u>Total Fees</u>	<u>= \$ 1,850.00</u>
<u>Less Payments</u>	<u>= \$ 1,075.00</u>
Balance due to NASD Dispute Resolution	= \$ 775.00

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Susan K. Franz - Non-Public Arbitrator
Robert E. Waite - Non-Public Arbitrator

Concurring Arbitrators:


Robert William Haggarty, III
Non-Public Arbitrator, Presiding Chair

11/12/04
Signature Date

Susan K. Franz
Public Arbitrator

Signature Date

Dissenting Arbitrator:

Robert E. Waite

Signature Date

NASD Dispute Resolution
Arbitration No. 03-03035
Award Page 4 of 5

Fee Summary

Claimant, Fahnestock & Co., Inc., is liable for:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,800.00
<u>Total Fees</u>	= \$10,050.00
<u>Less payments</u>	= \$ 9,450.00
Balance due to NASD Dispute Resolution	= \$ 600.00

Respondent Laura Sage is liable for:

Counterclaim filing fees	= \$ 50.00
Forum Fees	= \$1,800.00
<u>Total Fees</u>	= \$ 1,850.00
<u>Less Payments</u>	= \$ 1,075.00
Balance due to NASD Dispute Resolution	= \$ 775.00

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

ARBITRATION PANEL

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Susan K. Franz - Non-Public Arbitrator
Robert E. Waite - Non-Public Arbitrator

Concurring Arbitrators:

Robert William Haggarty, III
Public Arbitrator, Presiding Chair

Susan K. Franz
Public Arbitrator

Signature Date

11-15-04
Signature Date

Dissenting Arbitrator:

Robert E. Waite

Signature Date

NASD Dispute Resolution
Arbitration No. 03-03865
Award Page 4 of 5

Fee Summary

Claimant, Fahnestock & Co., Inc., is liable for:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 10,050.00
Less payments	= \$ 9,450.00
Balance due to NASD Dispute Resolution	= \$ 600.00

Respondent Laura Sage is liable for:

Counterclaim filing fees	= \$ 50.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 1,850.00
Less Payments	= \$ 1,075.00
Balance due to NASD Dispute Resolution	= \$ 775.00

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Susan K. Franz - Non-Public Arbitrator
Robert E. Waite - Non-Public Arbitrator

Concurring Arbitrators:


Robert William Haggarty, III
Public Arbitrator, Presiding Chair

Signature Date

Susan K. Franz
Public Arbitrator

Signature Date

Dissenting Arbitrator:


Robert E. Waite

11/16/04
Signature Date