

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant
Angelina A. Paczkowski

Case Number: 03-05640

Names of the Respondents
Fahnestock & Co., Inc.
Josephthal & Co., Inc.
Craig R. Lawler
M&T Securities, Inc.
Lorna S. Gessner
Royal Alliance Associates, Inc.
William J. Feudale, Jr.

Hearing Site: Philadelphia, PA

Nature of the Dispute: Customer vs. Members and Associated Persons

REPRESENTATION OF PARTIES

Claimant, Angelina A. Paczkowski, hereinafter referred to as "Claimant", was represented by Rhonda M. Fulginiti, Esq., Cozen O'Connor, P.C., Philadelphia, Pennsylvania.

Respondents, Fahnestock & Co., Inc. ("Fahnestock"), Josephthal & Co., Inc. ("Josephthal") and Craig R. Lawler ("Lawler"), were represented by Tamarah M. Francois, Esq., Oppenheimer & Co., Inc., Philadelphia, Pennsylvania.

Respondents, M&T Securities, Inc. ("M&T") and Lorna S. Gessner ("Gessner"), were represented by Maureen W. Sullivan, Esq., Manufacturers and Traders Trust Company, Buffalo, New York.

Respondents, Royal Alliance Associates, Inc. ("Royal Alliance") and William J. Feudale, Jr. ("Feudale"), were represented by Andrew W. Davitt, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, P.C., Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim was filed on August 1, 2003.

Claimant signed the Uniform Submission Agreement on July 21, 2003.

Claimant's Response to Respondents Fahnestock & Co, Inc., Josephthal & Co, Inc., and Craig A. Lawler's Answer and Motion to Dismiss was filed on April 27, 2004.

Joint Statement of Answer and Motion to Dismiss filed by Respondents Fahnestock, Josephthal and Lawler on March 30, 2004.

A representative of Respondent Fahnestock signed the Uniform Submission Agreement on March 15, 2004.

A representative of Respondent Josephthal signed the Uniform Submission Agreement on July 15, 2004.

Respondent Lawler signed the Uniform Submission Agreement on January 12, 2004.

Respondents, M&T and Gessner, neither filed an Answer to the Statement of Claim nor executed Uniform Submission Agreements.

Respondents, Royal Alliance Associates, Inc. and William J. Feudale's Preliminary Answer, Motion to Dismiss, Motion for a More Specific Statement of Claim and Affirmative Defenses to Statement of Claim was filed on February 10, 2004.

A representative of Respondent Royal Alliance signed the Uniform Submission Agreement on February 10, 2004.

Respondent Feudale signed the Uniform Submission Agreement on February 10, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; breach of fiduciary duty; common law fraud; violation of anti-fraud provisions of federal and state securities laws; negligence; and, violations of the Pennsylvania Consumer Protection Law. The causes of action relate to purchase of a high yield bond fund and mutual funds.

Unless specifically admitted in their Answer, Respondents Fahnestock, Josephthal and Lawler denied the allegations made in the Statement of Claim and asserted the following defenses among others: ratification; laches, waiver and estoppel; failure to mitigate; and, assumption of the risk.

Unless specifically admitted in their Answer, Respondents Royal Alliance and Feudale denied the allegations made in the Statement of Claim and asserted the following defenses among others: failure to state a claim upon which relief may be granted; ratification; waiver, estoppel and/or laches; statutes of limitations; assumption of the risk; contributory/comparative negligence; and, failure to mitigate.

RELIEF REQUESTED

Claimant in her Statement of Claim requested compensatory damages in the amount of \$30,000.00 plus punitive damages, forum fees, expert witness costs, reasonable attorney's fees and interest in unspecified amounts.

Respondents Fahnestock, Josephthal and Lawler requested that the Statement of Claim be dismissed in its entirety with prejudice; that fees and costs be awarded to Respondents; and, that the Arbitration Panel (the "Panel") grant such other relief as it deems appropriate.

Respondents Royal Alliance and Feudale requested that the case be dismissed with prejudice with fees and costs assessed to Claimant or her counsel and that this matter be expunged from Mr. Feudale's Central Registration Depository record.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant advised on March 1, 2004 that her claims against Respondents Royal Alliance and Feudale were amicably resolved.

Claimant advised on March 25, 2004 that her claims against Respondents M&T and Gessner, were amicably resolved.

On or about September 8, 2004, the Panel denied in part and granted in part Respondents Fahnestock's, Josephthal's and Lawler's Motion to Dismiss.

AWARD

After considering the pleadings, 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. Claimant's claims are denied in their entirety;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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	= \$150.00
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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, M&T and Royal Alliance are parties.

Fahnestock

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

M&T

Member surcharge	= \$ 600.00
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Royal Alliance

Member surcharge	= \$ 600.00
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Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel @ \$600.00	= \$ 600.00
Pre-hearing conference: July 14, 2004 1 session	

Two (2) Hearing sessions @ \$600.00	= \$ 1,200.00
Hearing Date: October 12, 2004 2 sessions	

Total Forum Fees	= \$ 1,800.00
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1. The Panel has assessed \$ 900.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 900.00 of the forum fees to Respondents Fahnestock, Josephthal and Lawler, jointly and severally.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 150.00
Forum Fees	= \$ 900.00
Total Fees	= \$ 1,050.00
Less payments	= \$ 225.00
Balance Due NASD Dispute Resolution	= \$ 825.00

2. Respondent Fahnestock is assessed and shall pay:

Member Fees	= \$ 2,350.00
Total Fees	= \$ 2,350.00
Less payments	= \$ 2,650.00
Refund Due Fahnestock from NASD Dispute Resolution	= \$ 300.00

3. Respondent M&T is assessed and shall pay:

Member Fees	= \$ 600.00
Total Fees	= \$ 600.00
<u>Less payments</u>	<u>= \$ 1,100.00</u>
Balance Due M&T from NASD Dispute Resolution	= \$ 500.00

4. Respondent Royal Alliance is assessed and shall pay:

<u>Member Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 600.00
<u>Less payments</u>	<u>= \$ 1,100.00</u>
Balance Due Royal Alliance from NASD Dispute Resolution	= \$ 500.00

5. Respondents Fahnestock, Josephthal and Lawler are jointly and severally assessed and shall pay:

<u>Forum Fees</u>	<u>= \$ 900.00</u>
Total Fees	= \$ 900.00
<u>Less payments</u>	<u>= \$ 900.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Paul J. Greco, Esq.	-	Public Arbitrator, Presiding Chairperson
Howard A. Finkelman, Esq.	-	Public Arbitrator, Panelist
John W. Thomas, Jr.	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Paul J. Greco, Esq.
Public Arbitrator, Presiding Chairperson

11/03/2004
Signature Date

Howard A. Finkelman, Esq.
Public Arbitrator, Panelist

Signature Date

John W. Thomas, Jr.
Non-Public Arbitrator, Panelist

Signature Date

November 4, 2004

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

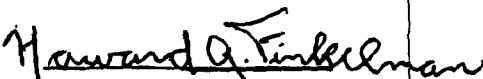
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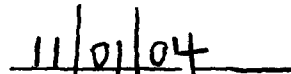
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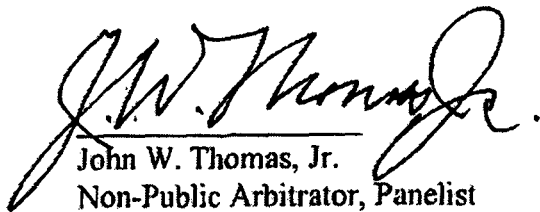
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Non-Public Arbitrator, Panelist

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Signature Date

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