

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Fahnestock & Co., Inc. (Claimant) v. Gary B. Bickham (Respondent)

Case Number: 04-00713

Hearing Site: New York, New York

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

Claimant Fahnestock & Co., Inc. ("Fahnestock") hereinafter referred to as "Claimant": Cory M. Sobel, Esq., Oppenheimer & Co., New York, NY.

Respondent Gary B. Bickham ("Bickham") appeared *pro se*.

CASE INFORMATION

Statement of Claim filed on or about: February 3, 2004.
Claimant signed the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: July 9, 2004.
Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following cause of action: failure to repay monies owed pursuant to the terms of a promissory note.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$43,899.00, consisting of the principal amount due under the Note minus commissions earned but not paid; interest at the rate of 8% from 11/4/02 through the date of the arbitration award; NASD filing fees in the amount of \$2,325.00; and attorneys' fees related to the cost of collection in the amount of \$3,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code, and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

Respondent verbally made a motion that he was denied a discovery conference tentatively established for October 29, 2004. The Arbitrator denied the motion for a discovery conference as neither party requested, in writing, the use of the October 29, 2004 date to be a procedural discovery conference.

AWARD

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

1. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$43,899.00.
2. Respondent is liable for and shall pay to Claimant the sum of \$1,000.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. 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	= \$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, Fahnestock & Co., Inc. is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with the sole arbitrator @ \$450.00 = \$ 900.00
Pre-hearing conferences: July 27, 2004 1 session
August 30, 2004 1 session

Two (2) Hearing sessions @ \$450.00 = \$ 900.00
Hearing Date: March 9, 2005 2 sessions
Total Forum Fees = \$1,800.00

1. The Arbitrator has assessed \$1,800.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
<u>Member Fees</u>	= \$2,625.00
Total Fees	= \$3,625.00
<u>Less payments</u>	= \$4,075.00
Refund Due Claimant	= \$ 450.00

As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$1,000.00 filing fee.

2. Respondent is solely liable for:

Forum Fees	= \$1,800.00
Total Fees	= \$1,800.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,800.00

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

ARBITRATOR

Lawrence Howard Wolf

- Sole Non-Public Arbitrator

Arbitrator's Signature

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.


Lawrence Howard Wolf
Sole Non-Public Arbitrator

3/16/05
Signature Date

March 17, 2005

Date of Service (For NASD Dispute Resolution use only)