
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-04422

Gerald Richter
Gerald Richter UND IRA Account
Norma Richter
Richter Homes
Bedford Square Apartments
Norma Richter UND IRA Account
Daniel R. Yashinsky UND MI UNIF GTMA
Amy Beth Yashinsky UND MI UNIF GTMA

Names of the Respondents

Hearing Site: Boca Raton, Florida

Fahnestock & Co., Inc. n/k/a
Oppenheimer & Co., Inc.
Lee Hartzmark
Bruce Hartzmark

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Gerald Richter, Gerald Richter UND IRA Account, Norma Richter, Richter Homes, Bedford Square Apartments, Norma Richter UND IRA Account, Daniel R. Yashinsky UND MI UNIF GTMA and Amy Beth Yashinsky UND MI UNIF GTMA, hereinafter collectively referred to as "Claimants": Russell L. Forkey, Esq., Russell L. Forkey, P.A., Ft. Lauderdale, Florida.

For Fahnestock & Co., Inc. n/k/a Oppenheimer & Co., Inc. ("Oppenheimer"), hereinafter referred to as "Respondent Oppenheimer": Cory S. Zadanosky, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

For Lee Hartzmark, hereinafter referred to as "Respondent L. Hartzmark" and Bruce Hartzmark, hereinafter referred to as "Respondent B. Hartzmark": Steven L. Wasserman, Esq., Chernett Wasserman Yarger Pasternak, LLC, Cleveland, Ohio.

CASE INFORMATION

Statement of Claim filed on or about: June 23, 2004.

Claimants signed the Uniform Submission Agreements: June 22, 2004.

Statement of Answer filed by Respondents Oppenheimer, L. Hartzmark and B. Hartzmark on or about: September 23, 2004.

Respondent Oppenheimer signed but did not date the Uniform Submission Agreement.
Respondent L. Hartzmark signed the Uniform Submission Agreement: December 28, 2005.
Respondent B. Hartzmark signed the Uniform Submission Agreement: December 28, 2005.
Motion to Dismiss Claimants' Time Barred Claims filed by Respondents Oppenheimer, L. Hartzmark and B. Hartzmark on or about: September 23, 2004.
Claimants' Response to Respondents' Motion to Dismiss filed on or about: December 13, 2004.
Respondents' Reply to Claimants' Response filed on or about: December 29, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trading; omission of facts; unsuitability; common law fraud; breach of fiduciary duty; negligence; gross negligence; and, failure to supervise. The causes of action relate, but are not limited, to Claimants' investments in various unspecified limited partnerships.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$2,500,000.00; punitive damages in the amount of \$2,500,000.00; interest; costs; and, such other relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested that the Panel issue an award in its favor dismissing the claims asserted by Claimants with prejudice, assessing all forum costs against Claimants and granting Respondents Oppenheimer, L. Hartzmark and B. Hartzmark such other and further relief as the Panel deemed just and appropriate. Additionally, Respondents requested that this matter be expunged from the NASD Central Registration Depository ("CRD") records of Respondents L. Hartzmark and B. Hartzmark.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 28, 2005, the Panel issued an Order that denied, without prejudice, Respondents' Motion to Dismiss Claimants' Time Barred Claims.

On or about October 11, 2005, the parties entered into a Settlement Agreement whereby Respondent L. Hartzmark agreed to purchase, for good and valuable consideration and fair market value, certain securities owned by Claimants.

On or about December 12, 2005, Claimants' filed with NASD their Notice of Dismissal, with prejudice as to all Respondents.

On or about December 16, 2005, the parties filed with NASD a proposed Stipulated Award for the Panel's consideration.

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

AWARD

After considering the pleadings and the parties' proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' withdrawal with prejudice, of their claims against Respondents, is accepted and Respondents are dismissed from this matter.

Pursuant to Rule 2130 of the Code, the Panel has made the following affirmative findings of fact:

This matter involved disputed claims and was dismissed with prejudice by Claimants prior to the submission of any evidence by any party, and prior to the final arbitration hearing. No evidence was ever submitted to this Panel by any party of any wrongdoing by Respondents. Furthermore, Claimants acknowledge and represent that Respondents were not involved in the alleged investment-related sales practice violations alleged in the arbitration proceeding. Accordingly, the Panel recommends the expungement of all reference to the above captioned arbitration from Respondents L. Hartzmark's and B. Hartzmark's registration records maintained by NASD CRD, with the understanding that pursuant to NASD Notices to Members 04-16, Respondents L. Hartzmark and B. Hartzmark must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

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	= \$ 600.00
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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, Respondent Oppenheimer is a member firm and a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

October 24-28, 2005, adjournment requested by Claimants	= \$1,200.00
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The Panel assessed the total adjournment fee of \$1,200.00 to Claimant, jointly and severally.

Three-Day Cancellation Fees

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

The Panel assessed the total three-day cancellation fee of \$300.00 to Claimants, jointly and severally.

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 incurred in this matter.

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 sessions with a single arbitrator @ \$450.00/session = \$ 450.00
Pre-hearing conference: September 27, 2005 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00/session = \$2,400.00
Pre-hearing conferences: November 10, 2004 1 session
January 27, 2005 1 session

Total Forum Fees = \$2,850.00

The Panel assessed forum fees of \$1,425.00 to Claimants, jointly and severally.
The Panel assessed forum fees of \$1,425.00 to Respondents, jointly and severally.

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 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 in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$1,200.00
Three-Day Cancellation Fee	= \$ 300.00
Forum Fees	= \$1,425.00
Total Fees	= \$3,525.00

<u>Less payments</u>	= \$1,800.00
Balance Due NASD Dispute Resolution	= \$1,725.00

Respondent Oppenheimer is solely liable for:

<u>Member Fees</u>	= \$8,550.00
Total Fees	= \$8,550.00
<u>Less payments</u>	= \$8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,425.00
Total Fees	= \$1,425.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,425.00

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

ARBITRATION PANEL

Peter A. Portley, Esq.	-	Public Arbitrator, Presiding Chairperson
Rosemarie Ann Jannuzzi, Esq.	-	Public Arbitrator
David M. Finkel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Peter A. Portley, Esq.
Public Arbitrator, Presiding Chairperson

January 3, 2006
Signature Date

/s/
Rosemarie Ann Jannuzzi, Esq.
Public Arbitrator

December 30, 2005
Signature Date

David M. Finkel
Non-Public Arbitrator

Signature Date

January 9, 2006
Date of Service (For NASD Dispute Resolution office use only)

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Rosemarie Ann Jannuzzi, Esq.	-	Public Arbitrator
David M. Finkel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Peter A. Portley, Esq.
Public Arbitrator, Presiding Chairperson

1/3/06
Signature Date

Rosemarie Ann Jannuzzi, Esq.
Public Arbitrator

Signature Date

David M. Finkel
Non-Public Arbitrator

Signature Date

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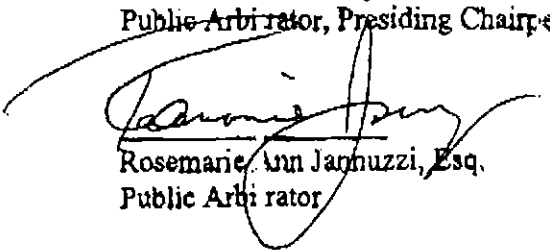
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Rosemarie Ann Jannuzzi, Esq.	-	Public Arbitrator
David M. Finkel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Peter A. Portley, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Rosemarie Ann Jannuzzi, Esq.
Public Arbitrator

12-30-05
Signature Date

David M. Finkel
Non-Public Arbitrator

Signature Date

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

<u>Less payments</u>	= \$1,800.00
<u>Balance Due NASD Dispute Resolution</u>	= \$1,725.00

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<u>Member Fees</u>	= \$8,550.00
<u>Total Fees</u>	= \$8,550.00
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Rosemarie Ann Jannuzzi, Esq.	-	Public Arbitrator
David M. Finkel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Peter A. Portley, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Rosemarie Ann Jannuzzi, Esq.
Public Arbitrator

Signature Date



David M. Finkel
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