
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Merton Segal
Beverly Segal

Case Number: 04-08467

Names of the Respondents

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

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Merton Segal and Beverly Segal, hereinafter referred to as "Claimants": Russell L. Forkey, Esq., Russell L. Forkey, P.A., Fort Lauderdale, Florida.

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

For Respondents Lee Hartzmark ("L. Hartzmark") and Bruce Hartzmark ("B. Hartzmark"): Steven L. Wasserman, Esq., Chernett Wasserman Yarger & Pasternak, LLC, Cleveland, Ohio.

CASE INFORMATION

Statement of Claim filed on or about: December 14, 2004.

Claimants signed the Uniform Submission Agreement: December 4, 2004.

Statement of Answer filed by Respondents on or about: March 10, 2005.

Respondent Oppenheimer signed the Uniform Submission Agreement: December 28, 2004.

Respondent L. Hartzmark signed the Uniform Submission Agreement: January 26, 2005.

Respondent B. Hartzmark signed the Uniform Submission Agreement: January 25, 2005.

Motion to Disqualify Respondents' Hartzmark's Counsel filed by Claimants on or about: February 10, 2006.

Response to Motion to Disqualify filed by Respondents L. Hartzmark and B. Hartzmark on or about: February 13, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: 1) common law fraud; 2) breach of fiduciary duty; 3) negligence; 4) gross negligence; 5) unsuitability; and, 6) failure to supervise. The causes of action relate to the purchase of various unspecified stocks in Claimants' account.

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 \$1,000,000.00, interest, costs, punitive damages in the amount of \$250,000.00 and such other relief as this Panel deemed appropriate.

Respondents requested that the Statement of Claim be dismissed in its entirety, with prejudice, an assessment of all forum fees against Claimants and an award of such other and further relief as this Panel deemed just and appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Oppenheimer did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the Statement of Claim, is bound by the determination of the Panel on all issues submitted.

Claimants' Motion to Disqualify Respondents' Counsel was not ruled on prior to the settlement of this matter and, therefore, deemed moot by the Panel.

On or about March 16, 2006, the parties advised NASD Dispute Resolution that they had settled this matter and would be submitting a proposed Stipulated Award with a request for expungement of the NASD Central Registration Depository (the "CRD") records of Respondents L. Hartzmark and B. Hartzmark.

On or about March 16, 2006, 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.

This matter involved disputed claims and was dismissed, with prejudice, by the Claimants prior to the submission of any evidence by any party, and prior to the final arbitration hearing. No evidence was ever submitted by any party of any wrongdoing by Respondents. Furthermore, Claimants' acknowledge and represent that Respondents L. Hartzmark and B. Hartzmark were not involved in the alleged investment-related sales practice violations alleged in the Arbitration Proceeding. Accordingly, all references to this arbitration proceeding shall be expunged from the NASD CRD records of said Respondents.

On April 7, 2006, the Panel granted the Motion for a Stipulated Award with request for expungement of the NASD CRD records of Respondents L. Hartzmark and B. Hartzmark.

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

AWARD

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

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

Pursuant to NASD Rule 2130, the Panel finds that Respondents L. Hartzmark and B. Hartzmark were not involved in any alleged investment related sales-practice violations. Therefore, the Panel recommends the expungement of all reference to the above captioned arbitration from Respondents L. Hartzmark and B. Hartzmark's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents L. Hartzmark and B. Hartzmark must obtain confirmation from a court of competent jurisdiction before the 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.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, 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	= \$ 500.00
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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 party to this dispute and was a member of NASD at the time the following fees were assessed:

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

No requests for adjournments were filed in this matter.

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:

No cancellation fees were assessed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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 session with the Panel @ \$1,200.00	= \$1,200.00
<u>Pre-hearing conference: May 10, 2005 1 session</u>	
Total Forum Fees	= \$1,200.00

The Panel has assessed \$600.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$600.00 of the forum fees jointly and severally to Respondents.

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 during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 600.00
<u>Retained hearing session deposit</u>	= \$ 600.00
Total Fees	= \$ 1,700.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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:

Forum Fees	=	\$ 600.00
Total Fees	=	\$ 600.00
Less payments	=	\$ 0.00
Balance Due NASD Dispute Resolution	=	\$ 600.00

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

ARBITRATION PANEL

<i>David Rich</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Norman Robert Goldman</i>	-	<i>Public Arbitrator</i>
<i>Walter John Chesney, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

_____/s/_____
David Rich
Public Arbitrator, Presiding Chairperson

04/18/06
Signature Date

_____/s/_____
Norman Robert Goldman
Public Arbitrator

04/18/06
Signature Date

_____/s/_____
Walter John Chesney, Jr.
Non-Public Arbitrator

04/19/06
Signature Date

04/20/06
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No.04-08467
Stipulated Award Page 5

Respondents are jointly and severally liable for:

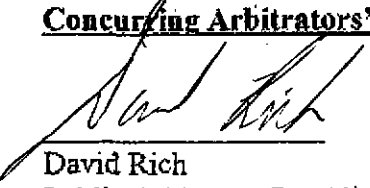
Forum Fees	=	\$ 600.00
Total Fees	=	\$ 600.00
Less payments	=	\$ 0.00
Balance Due NASD Dispute Resolution	=	\$ 600.00

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Norman Robert Goldman	-	Public Arbitrator
Walter John Chesney, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


David Rich
Public Arbitrator, Presiding Chairperson

April 18, 2006
Signature Date

Norman Robert Goldman
Public Arbitrator

Signature Date

Walter John Chesney, Jr.
Non-Public Arbitrator

Signature Date

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

Apr. 17. 2006 1:17PM NASD

NO. 2040 5. 1.1

NASD Dispute Resolution
 Arbitration No.04-08467
Stipulated Award Page 5

Respondents are jointly and severally liable for:

Forum Fees	=	\$ 600.00
Total Fees	=	\$ 600.00
Less payments	=	\$ 0.00
Balance Due NASD Dispute Resolution	=	\$ 600.00

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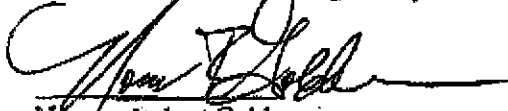
David Rich
 Norman Robert Goldman
 Walter John Chesney, Jr.

Public Arbitrator, Presiding Chairperson
 Public Arbitrator
 Non-Public Arbitrator

Concurring Arbitrators' Signatures

David Rich
 Public Arbitrator, Presiding Chairperson

Signature Date


 Norman Robert Goldman
 Public Arbitrator

Signature Date

Walter John Chesney, Jr.
 Non-Public Arbitrator

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NASD Dispute Resolution
Arbitration No.04-08467
Stipulated Award Page 5

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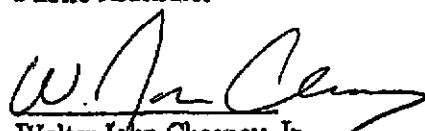
Concurring Arbitrators' Signatures

David Rich
Public Arbitrator, Presiding Chairperson

Signature Date

Norman Robert Goldman
Public Arbitrator

Signature Date


Walter John Chesney, Jr.
Non-Public Arbitrator

4/19/06
Signature Date

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