

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

B.C. Christopher :  
Division of Fahnestock & Co., Inc. :

Claimant :

vs. :

Jeffrey Harkness :

Respondent :  
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**INDUSTRY**

**CASE #91-02250  
AWARD**

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 12, 1991, Claimant B.C. Christopher, Division of Fahnestock & Co., Inc. through its outside counsel, James A. Stanziola, Esq. of Perry C. Hammilli, Overland Park, KS, alleged that it's customers, Oren & Billy Keith ordered and authorized Respondent, Jeffrey Harkness, a registered representative of B.C. Christopher, to purchase 95 First Trust Insured Municipal Bonds and 40 Insured Municipal Income Trust Bonds, and that the Keiths failed to submit payment, forcing B.C. Christopher to sell the Bonds at a loss. The Claimant also alleged that Respondent Harkness has a duty to indemnify the firm and should therefore be held liable.

Respondent, Jeffrey Harkness, through his counsel, Kenneth L. Joyce, Esq., maintained that he was never informed of any policy of Claimant to collect payment of account debit balances from the broker of record and that he acted as B.C. Christopher's employee. Respondent further maintained that an employee cannot be expected to insure that every transaction he enters into will be profitable for the employee and that the Claimant should be seeking recovery from the public customers.

RELIEF REQUESTED

Claimant, B.C. Christopher, Division of Fahnestock & Co., Inc. requested \$7,108.95 in actual damages, plus interest and costs.

Respondent, Jeffrey Harkness requested the claims of the Claimant be dismissed and that he be awarded costs and attorney's fees.

AWARD

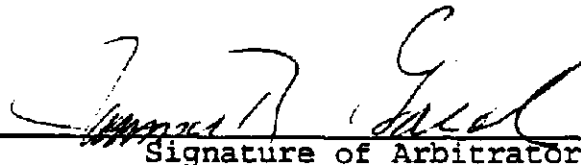
Pursuant to Section 10 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, James R. Gasal, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 8, 1991 and not signed by the Respondent as required by Sections 8 & 10 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant, B.C. Christopher, Division of Fahnestock & Co., Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **JAMES R. GASAL**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: May 22, 1992