

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Joseph V. Marone

92-04192

Name of Respondent

Fahnestock & Co., Inc.
Kuhn Brothers & Laidlaw, Inc.

REPRESENTATION

For Claimant: Michael A. Rose, Esq.

For Respondent Fahnestock & Co., Inc. ("Fahnestock"): Charles E. Padgett, Esq., in-house counsel of Fahnestock.

For Respondent Kuhn Brothers & Laidlaw, Inc. ("Kuhn Brothers"): Edward C. Gonzales, Esq., in-house counsel of Kuhn Brothers.

Edward A. Viner & Co. ("Viner") was not represented by counsel.

CASE INFORMATION

Statement of Claim filed: December 14, 1992.

Claimant's Submission Agreement signed on: December 7, 1992.

Fahnestock Statement of Answer filed on January 21, 1993.

Kuhn Brothers did not file a statement of Answer Viner did not file a Statement of Answer.

HEARING INFORMATION

Hearing Date/Sessions: September 29, 1993 - 2 sessions

~~January 6, 1994 - 1 session~~

CASE SUMMARY

Claimant alleged that he is an unsophisticated investor who had adopted a conservative attitude regarding personal finances. Claimant alleged that he was assured by his broker Wally Bakalinski that he should purchase the options of the common stock, Computer Associates International, which he had already owned. Claimant alleged that Bakalinski purchased options for him while at Prudential Securities and subsequently transferred to Kuhn Brothers. Claimant alleged that Bakalinski assured him that a great deal of money was being made with options. Claimant alleged that Bakalinski made unauthorized trades in his account and could not be contacted once it was determined that the account had suffered serious losses. Claimant alleged that Fahnestock is successor in interest to Kuhn Brothers and that Kuhn Brothers and Laidlaw was acquired by Viner in March, 1988.

Respondent Fahnestock maintained that it has no knowledge of Viner. Fahnestock denied that it is a successor in interest to Kuhn Brothers and Laidlaw and noted that no factual support for such claim had been made. Fahnestock maintained that it has no knowledge of any of the transactions complained of by Claimant.

Viner did not submit a statement of Answer.

Kuhn Brothers did not submit a Statement of Answer.

RELIEF REQUESTED

Claimant requested: \$87,353.00.

Respondent requested: that all Claimant's claims be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed to receive conformed copies of the award while the original remain on file with the NASD. by stipulation of the parties, the Statement of Claim was amended to name only Fahnestock.

After the hearing, the parties requested that they be allowed to submit legal memorandum because of various questions of law involved and were given time to submit those memorandum.

AWARD

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

- 1) The claimant's claims are denied in their entirety.
- 2) The claimant shall pay one half of the forum fees for the cost of this arbitration.
- 3) The Respondent shall pay one half of the forum fees for the cost of this arbitration.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Non-refundable Filing Fee: \$150.00

Hearing Session Fees: \$500 x 2 sessions = \$1,000.00 TOTAL: \$1,150.00

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1. Claimant shall pay the NASD the sum of \$575.00 to be offset by the \$650.00 already paid to the NASD. Claimant shall be reimbursed \$75.00 by the Respondent.
2. The Respondents jointly and severally shall pay the NASD the sum \$575.00.
3. This amount shall be satisfied by reimbursing the Claimant \$75.00 and remitting the balance of \$500.00 to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

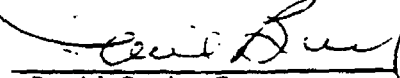
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Concurring Arbitrators' Signatures

Name

Public/Industry



David Buch, Esq.

NASD Date of Decision: 4/7/94

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 10 day of March, 1994, before me personally appeared David Buch, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Margaret M. Donocki

MARGARET M. DONOCKI
Notary Public, State of New York
Qualified in Erie County
My Commission Expires December 8, 1994 94

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Concurring Arbitrators' Signatures

Name

Public/Industry

John P. DeLuca
John P. DeLuca

NASD Date of Decision: 4/7/94

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 4 day of March, 1994, before me personally appeared John DeLuca known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

A handwritten signature in cursive script, appearing to read "Maureen J. Harris", is written over a horizontal line.

MAUREEN J. HARRIS
NOTARY PUBLIC IN THE STATE OF NEW YORK
QUALIFIED IN ONONDAGA COUNTY NO. 4020756
MY COMMISSION EXPIRES MAY 2, 1995

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Concurring Arbitrators' Signatures
Name

Public/Industry

Maryann Donahue-Yadon
Maryann Donahue-Yadon

Date of Decision: 3/7/94

NASD Date of Decision 4/7/94

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 7 day of MARCh, 1994, before me personally appeared Maryann Donahue-Yadon known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

M. P. G. - E. 7-5-94