

**N.A.S.D. AWARD****NATIONAL ASSOCIATION OF SECURITIES DEALERS**

John Philip Langley,  
Claimant,

v.

No. 94-01181

B.C. Christopher, Division  
of Fahnestock & Co., Inc., and  
Fahnestock & Co., Inc.,  
Respondents.

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**REPRESENTATION OF PARTIES**

Claimant John Philip Langley ("Claimant") was represented by Jeff Zimmerman, Esq., and James M. Holmberg, Esq., Shawnee, Kansas.

Respondents B.C. Christopher, Division of Fahnestock & Co., Inc., and Fahnestock & Co., Inc. ("Respondents") were represented by Eric J. Shames, Esq., Fahnestock & Co., Inc., New York, New York.

**CASE INFORMATION**

Claimant's Statement of Claim was filed on or about March 22, 1994. Claimant's Submission Agreement was signed on March 22, 1994.

Respondents' joint Statement of Answer was filed on or about June 1, 1994. Respondents' Submission Agreement was signed on July 13, 1994.

**HEARING INFORMATION**

A Pre-hearing conference was held on May 25, 1995, lasting one (1) session. On July 27, 1995, hearings were held in Kansas City, Missouri lasting a total of two (2) sessions.

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### **CASE SUMMARY**

In his Statement of Claim, Claimant stated that he had been employed as a stock broker from January 1988 to April, 1993. Claimant further stated that during his tenure at Rodman & Renshaw, a mistake was made on a "sell" order which cost RR approximately \$18,000.00, and should have been caught by those at RR responsible for checking orders. Claimant also states that RR tried to get him to sign a promissory note for the amount of the error. Claimant alleged that he had a meeting with Elliot Holob, the Branch Manager for B.C. Christopher, shortly before leaving RR, for the purpose of seeking new employment. Claimant further alleged that: Holob hired him on the spot after some preliminary discussions; that all of his previous involvement in complaints and arbitrations were disclosed to Holob during their meeting; all complaints and arbitrations were concluded prior to his hiring by the Respondents; approximately four days after being hired by Respondents, Holob informed him that he could not be hired because of his Central Record Depository record despite the fact that he had already been hired and that he had revealed all involvement with complaints and arbitrations. Lastly, Claimant alleged that: At the end of his tenure at RR, he had over 100 accounts which he tried to transfer to Respondents; upon termination, Respondents had transferred the accounts back to RR; and the transfer and retransfer of accounts created doubt and uncertainty in the minds of his clients with the result of his only being able to transfer approximately 40 of those accounts to the firm where he worked after leaving Respondents.

In their joint Answer, Respondents, unless otherwise admitted therein, denied the allegations contained in the Statement of Claim. Respondents asserted that Claimant was offered a position as a registered representative pending the approval of the National Association of Securities Dealers, Inc. ("NASD"); absent such approval, the Claimant could not perform the duties of his offered position. Respondents also asserted that the NASD did not approve of Claimant's application due to his failure to disclose information on his registration application which was relevant to the NASD.

### **RELIEF REQUESTED**

Claimant requested damages of \$250,000.00 calculated as \$25,000.00 a year diminished earnings power for ten years until age 65.

Respondents requested that the Statement of Claim be dismissed and costs in the amount of \$5,000.00 be assessed against the Claimant.

### **OTHER ISSUES CONSIDERED & DECIDED**

Pursuant Claimant's request for waiver of filing and hearing session fees made with the filing of his Claim, the Director of Arbitration granted the request, and allowed the Statement of Claim to be filed without the fee normally required under Sections 25 and 44 of the NASD Code of Arbitration

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Procedure (the "Code").

The parties have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

### **AWARD**

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

1. Claimant's claims are, and each of them, denied and dismissed with prejudice.
2. All claims and requests not specifically covered are hereby denied and dismissed with prejudice.
3. Each party shall bear its own costs and expenses associated with this arbitration, including attorneys' fees, except as set forth below.

### **FORUM FEES**

Pursuant to Section 44(c) of the NASD Code of Arbitration Procedure (the "Code"), the following forum fees are assessed:

Forum fees are calculated at the rate of \$ 750.00 per hearing session and \$300.00 for each Pre-hearing conference, if any. There were 3 regular sessions x \$ 750.00 = \$2,250.00 and 1 Pre-hearing session x \$300.00 totaling \$2,550.00 in forum fees. Pursuant to §44(b) a hearing session is any meeting between the parties and the arbitrator(s), including a Pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Section 45 of the Code, the NASD shall retain the nonrefundable member surcharge in the amount of \$200.00 previously paid by the Respondents.

Forum fees in the amount of \$1,275.00 are assessed against the Claimant.

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Forum fees in the amount of \$1,275.00 are assessed against the Respondents.

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

### CONCURRING ARBITRATORS

Dated:

Name:

August 8, 1995

Jane L. Stafford /s/  
Jane L. Stafford  
Presiding Chair  
Industry Arbitrator

August 22, 1995

Keith O'Rourke /s/  
Keith O'Rourke  
Industry Arbitrator

August 9, 1995

Robert L. Cowee /s/  
Robert L. Cowee  
Industry Arbitrator