

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

Anthony LoBianco
Joseph Mancuso

NASD Arbitration
#94-01908

vs.

Name of Respondents

Smith Barney, Inc.
Reich & Co., Inc.
Fahnestock & Co.
Kenneth Bolton

REPRESENTATION

For Claimants: Joseph F. Kyle, Esq., Kyle and Kyle, Las Vegas, Nevada

For Respondents Reich & Co., Inc., Fahnestock & Co., and Kenneth Bolton:
Eric J. Shames, Esq., Reich & Co., Inc., New York, New York

CASE INFORMATION

Statement of Claim filed: May 2, 1994

Amendment to Claim filed: September 19, 1994

Amended Statement of Claim filed: May 9, 1995

Claimants' Submission Agreements signed:

Anthony LoBianco: May 16, 1994

Joseph Mancuso: September 19, 1994

Statement of Answer filed by Respondent Reich & Co.: August 30, 1994

Respondents Bolton and Fahnestock & Co., subsequently joined Reich & Co.'s answer.

Respondents did not file submission agreements.

CASE INFORMATION

A pre-hearing telephone conference was held on April 30, 1996, and lasted one session.

The evidentiary hearing was held in Las Vegas, Nevada, as follows:

July 30, 1996 - 2 sessions
July 31, 1996 - 2 sessions
August 1, 1996 - 1 session

CASE SUMMARY

Claimants alleged Respondents Reich & Co. and Bolton churned their account, recommended and effected unsuitable investments in common stocks, made unauthorized transactions, and failed to disclose the risks of the investments. Claimants also alleged failure to supervise, fraud, and breach of fiduciary duty. Claimants amended their claim to add Fahnestock & Co., as successor-in-interest to Reich & Co.

Respondents denied the allegations of the claim.

RELIEF REQUESTED

Claimants requested damages of approximately \$78,000, plus punitive damages of \$300,000, and attorney's fees of \$125,000.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Smith Barney settled out of this case prior to the evidentiary hearing, and was dismissed.

The parties have agreed to receive copies of the Award while the originals 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. All claims asserted against Respondent Fahnestock & Co. are dismissed in their entirety.
2. Respondent Reich & Co. is liable for and shall pay to Claimants the sum of \$33,750 in satisfaction of all claims.
3. Respondent Kenneth Bolton is liable for and shall pay to Claimants the sum of \$5,000 in satisfaction of all claims.
4. The claim for punitive damages is dismissed.
5. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEE

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$200 non-refundable filing fee paid by Claimants.

Forum fees are assessed as follows:

Total fees:

1 pre-hearing telephone conference @ \$300/session	\$300
5 hearings sessions @ \$750/session	<u>3750</u>
	\$4050

Claimants' one-half share	\$2025
Credit for deposit	<u>(750)</u>
Balance due	\$1275

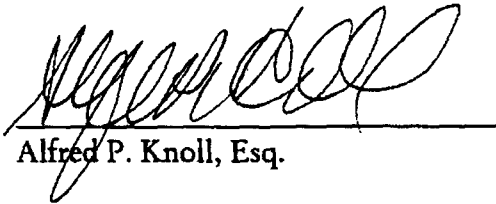
Respondents Reich & Co. & Kenneth Bolton's joint & several one-half share	<u>\$2025</u>

Fees are payable to the NASD, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Alfred P. Knoll, Esq.	Public
William Urga, Esq.	Public
Lincoln F. Stock	Industry

Concurring Arbitrators Signatures



Alfred P. Knoll, Esq.

William Urga, Esq.

Lincoln F. Stock

Date of Decision: _____

Served: August 15, 1996

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Alfred P. Knoll, Esq.	Public
William Urga, Esq.	Public
Lincoln F. Stock	Industry

Concurring Arbitrators Signatures

Alfred P. Knoll, Esq.



William Urga, Esq.

Lincoln F. Stock

Date of Decision: _____

Served: 08/16/96


ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Alfred P. Knoll, Esq.	Public
William Urga, Esq.	Public
Lincoln F. Stock	Industry

Concurring Arbitrators Signatures

Alfred P. Knoll, Esq.

William Urga, Esq.


Lincoln F. Stock

Date of Decision: _____

Date Served: 08/15/96