

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Stewart Sherman

Case No.
94-03243

Name of Respondent

Fahnestock & Co., Inc.
Bruce Millman

REPRESENTATION

Claimant: Stewart Sherman ("Sherman"), appeared pro se.

For Respondent, Fahnestock & Co., ("Fahnestock") and Bruce Millman ("Millman"), appeared Eric J. Shames, Esq., of the firm Fahnestock & Co., Inc.

CASE INFORMATION

Statement of Claim filed: August 16, 1994.

Claimant's Submission Agreement signed on: August 6, 1994.

Joint Statement of Answer filed by Respondent on: September 12, 1994.

Respondent, Fahnestock's Submission Agreement signed on: November 2, 1994.

Respondent, Millman's Submission Agreement signed on: September 26, 1994

Respondents, Millman and Fahnestock's Amended Statement of Answer was filed on February 2, 1995

Claimant's Response to the Amended Statement of Answer filed on: March 10, 1995

HEARING INFORMATION

Hearing Dates/Sessions

September 20, 1995	--	2 sessions
September 21, 1995	--	1 session

Hearing Location: The hearings took place at the National Association of Securities Dealers, Inc.'s offices located in New York City, New York and at the Marriott Financial Center Hotel in New York, NY.

CASE SUMMARY

Claimant Sherman alleges that between February 1993 and April 1994 he lost virtually his entire life savings as a result of Respondents Millman and Fahnestock. In particular the Claimant asserts that Respondent Millman advised the Claimant to purchase shares of stock in Saratoga Standardbreds and NTN communications because it was in the best interest of Fahnestock since Fahnestock initially sponsored these stocks for trading. The Claimant also contends that Respondent Millman recommended certain trading in Chrysler Corp., JWP, and Quaker State Oil in order to incur additional commissions.

In addition, the Claimant alleges that when Respondent Millman recommended that he purchase stock options instead of share of stock that he was never advised of the risky nature of buying stock options. Moreover, the Claimant alleges that Respondent Millman recommended the purchase of stock options so that he could make more commissions.

Respondents, Millman and Fahnestock, maintain that the Claimant was a sophisticated investor who made investment decisions on his own sometimes with no concern for the opinion of Millman. Moreover, prior to the events in question Claimant Sherman and Respondent Millman had a 15 year relationship. The Respondents also aver that Respondent Millman often advised a more conservative investment alternative which was usually vetoed by the Claimant.

In addition, the Respondents contend that certain trades--the purchase of NTN Communications in 1985 and 1987; the purchase of Saratoga Standardbreds in 1984; and the purchase of Quaker State Oil in 1988--are beyond the six year period of eligibility set forth in Section 15 of the NASD Code of Arbitration Procedure.

The Respondents also maintain that Respondent Millman never presented the Claimant with erroneous information and did not advise the Claimant to purchase or sell any securities for the sole purpose of generating a commission.

RELIEF REQUESTED

Claimant requested: a total of \$53,535.15 (\$13,079.88--the net loss of stocks purchased during the 1980s; \$20,264.15 -- the net loss from stock options; \$10,191.12 -- the total loss from JWP; and \$10,000.00 in estimate profits had shares of stock instead of stock options been purchased) in damages from Fahnestock.

Respondent requested that the Statement of Claim be dismissed in its entirety and that costs and disbursements be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in 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 remain on file with the NASD.

AWARD

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

1. All claims are denied.
2. The filing fee is the Claimant's responsibility. The hearing session fees are to be split as follows 1/2 to the Claimant and 1/2 to both Respondents jointly and severally.

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 Sessions (3 @ \$500 per session):	\$1500.00
Total Fees:	\$1650.00

1. Claimant paid \$650.00 and owes \$250.00 to the NASD
2. Respondents Millman and Fahnestock, owe jointly and severally \$750.00 to the NASD.

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

Concurring Arbitrators' Signatures

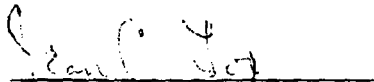
Name

Joseph J. Arata, Esq.
Chairperson

Public

William E.S. Browning, Esq.

Industry

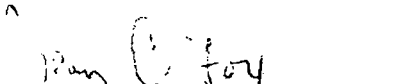


Jean C. Fox

Public

AFFIRMATION

I, Jean C. Fox, do hereby affirm pursuant to Article 7505 of the Civil Procedure Law and Rules, that this is my decision in the above captioned matter.

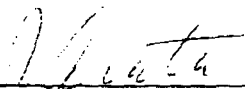


Jean C. Fox

Date of Decision: November 27, 1995

Concurring Arbitrators' Signatures

Name



Joseph J. Arata, Esq.
Chairperson

Public

William E.S. Browning, Esq.


Industry

Jean C. Fox

Public

AFFIRMATION

I, Joseph J. Arata, Esq. do hereby affirm pursuant to Article 7505 of the Civil Procedure Law and Rules, that this is my decision in the above captioned matter.



Joseph J. Arata, Esq.

Date of Decision: November 27, 1995

Concurring Arbitrators' Signatures

Name

Joseph J. Arata, Esq.
Chairperson

Public

William E.S. Browning, Esq.

Industry

Jean C. Fox

Public

AFFIRMATION

I, William E.S. Browning, Esq, do hereby affirm pursuant to Article 7505 of the Civil Procedure Law and Rules, that this is my decision in the above captioned matter.

William E.S. Browning, Esq.

Date of Decision: November 27, 1995