

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Norma J. Niehoff

95-05296

Name of Respondents

Thomas E. O'Connor
Mario J. Gabelli
Gabelli-O'Connor Fixed Income Management Co.
Gabelli-O'Connor Mutual Funds Management Co.

REPRESENTATION

For Claimant appeared Robert J. Engling, Esq. of Rosenman & Colin, LLP.

For Respondents Thomas E. O'Connor (O'Connor), Mario J. Gabelli (Gabelli) Gabelli-O'Connor Fixed Income Management Co. (GOC Management") and Gabelli-O'Connor Mutual Funds Management Co. (GOC Mutual Funds) appeared Raymond J. Soffientini, Esq. of Battle Fowler LLP.

CASE INFORMATION

The Statement of Claim was filed on November 8, 1995 and an Amended Statement of Claim was filed on March 14, 1996. Claimant's Submission Agreement was signed on March 14, 1996.

A Statement of Answer was filed by Respondents O'Connor and Gabelli on January 16, 1996. A joint Statement of Answer was filed by GOC Management and GOC Mutual Funds December 15, 1995. Each Respondent failed to file properly executed Submission Agreements.

HEARING INFORMATION

Hearing Dates/Sessions:	November 11, 1996	2 Sessions
	November 12, 1996	1 Session

The hearings were held at the Midday Club located in New York, NY.

CASE SUMMARY

Claimant alleged that she was due compensation pursuant to an agreement dated April 10, 1992. Claimant stated that the agreement provided for her to receive standard compensation rates as an outside consultant who introduced clients to GOC Management and that those payments were to be made within 30 days after the close of each calendar quarter. Claimant further stated that according to a letter dated October 27, 1992 this agreement included compensation for money market fund accounts and was paid at a rate of ten basis points on average daily balances. According to Claimant, in June 1995 she received

a letter from respondents stating that they were recalculating her compensation to a lower rate and that all payments would be suspended until the calculated amount was repaid.

Claimant amended her Statement of Claim removing the individual respondents and naming GOC Management and GOC Mutual Funds and argued that her agreement provided payments to be made to Claimant on all business she introduced to them through July 1, 1997. Claimant further argued that respondents had breached the agreement and had unilaterally attempted to alter its terms by recalculating the rate at five basis points and alleging that claimant had been overpaid by \$13,887.83.

Respondents Gabelli and O'Connor alleged that neither was claimant's employer nor were either an officer, director or employee of GOC Management or GOC Mutual Funds. They each contended that they did not enter into any agreement with claimant and therefore could not be held liable.

Respondents GOC Management and GOC Mutual Funds generally denied each and every allegation in the Statement of Claim. Respondents stated that in a letter dated April 18, 1988, claimant was to be compensated on a draw against production basis. Respondents contended that the payments to claimant should have been at the five basis points rate in accordance with the agreement made upon the termination of claimant's employment. Respondents further stated that claimant's initial draw was \$75,000 annualized and that she failed to generate sufficient commissions to cover the draw each year.

Respondents claimed that the parties had agreed to the five basis points rate and that due to a clerical error claimant was paid at the rate of ten basis points. When respondents discovered the error they allegedly suggested to claimant that the error be made up from future compensation but that claimant then insisted she was an external salesperson and therefore should continue to be paid at the ten basis points rate.

RELIEF REQUESTED

Claimant requested \$16,715.25 plus interest, an order enforcing the agreement at ten basis points, \$47,526.00 in estimated average quarterly payment due claimant for the remaining six quarters, interest on past due amounts, an accounting of all payments made and to be made and costs and fees.

Respondents Gabelli and O'Connor requested that Statement of Claim be dismissed against each of them. Respondents GOC Management and GOC Mutual Funds requested that Claimant be awarded no relief, that respondents continue to offset the overpayment from future compensation, that the rate of compensation be five basis points and costs and fees.

OTHER ISSUES CONSIDERED & DECIDED

The individual respondents, O'Connor and Gabelli, respectively moved to dismiss the Statement of Claim as to each of them. Although these motions were made academic by the filing of an Amended Statement of Claim withdrawing the claims against each of the individual respondents, for the record the Panel granted the motions to Dismiss by O'Connor and Gabelli.

Respondents Gabelli-O'Connor Fixed Income Management Co. and Gabelli-O'Connor Mutual Funds Management Co. voluntarily submitted to this arbitration.

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:

The claim asserted by Claimant, Norma J. Niehoff, is dismissed in its entirety except as follows: Respondents are directed to continue to honor their severance agreement with the Claimant and to continue to pay Claimant quarterly at the rate of (i) five basis points (0.05%) on the average daily balances in mutual fund accounts introduced by Claimant and (ii) twenty (20%) percent of the management fee generated on Separately Managed Accounts introduced by Claimant to respondents. In accordance with the severance agreement between the parties, the above described payments shall continue up to and including July 1, 1997.

FORUM FEES


Pursuant to Rule 10205 of the Code of Arbitration Procedure, the following Forum Fees are assessed:

3 Sessions x \$600.00	= \$1,800.00
less Claimant's hearing session deposit	= \$ 600.00
 Total due NASD	 = \$1,200.00

The panel of arbitrators have determined that the entire cost of arbitration be assessed against Respondents GOC Management and GOC Mutual Funds jointly and severally. Therefore Respondents be and hereby are jointly and severally liable to the NASD in the amount of \$1,200.00. Respondents are jointly and severally liable to claimant and shall reimburse claimant \$600.00 which represents the hearing session deposit previously paid.

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


ARBITRATORS' SIGNATURES


Robert L. Salzberg, Esq.

R. Keith Butterfield

Herbert Z. Geiger, Esq.

I, Robert L. Salzberg, Esq, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.


Robert L. Salzberg, Esq.

I, R. Keith Butterfield, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

R. Keith Butterfield

I, Herbert Z. Geiger, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Herbert Z. Geiger, Esq.

NASD Date of Decision: December 30, 1996

ARBITRATORS' SIGNATURES

Robert L. Salzberg, Esq.


R. Keith Butterfield

Herbert Z. Geiger, Esq.

I, Robert L. Salzberg, Esq, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Robert L. Salzberg, Esq.

I, R. Keith Butterfield, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.


R. Keith Butterfield

I, Herbert Z. Geiger, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.


Herbert Z. Geiger, Esq.

NASD Date of Decision: December 30, 1996

ARBITRATORS' SIGNATURES

Robert L. Salzberg, Esq.

R. Keith Butterfield



Herbert Z. Geiger, Esq.

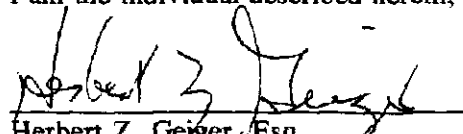
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Robert L. Salzberg, Esq.

I, R. Keith Butterfield, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

R. Keith Butterfield

I, Herbert Z. Geiger, do hereby affirm, pursuant to Article 7507 of the Civil Practice law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



Herbert Z. Geiger, Esq.

NASD Date of Decision: December 30, 1996