

## **AWARD**

### **NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

**Name of Claimant**

Juliana Osinchuk

v.

Arbitration No.  
96-02680

**Name of Respondents**

Fahnestock & Co., Inc.  
Reich & Co., Inc.  
Christine G. Hasslach

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### **REPRESENTATION**

For Claimant: Richard L. Sadler, Esq., Copeland, Landye, Bennett and Wolf, Portland, Oregon

For Respondents Fahnestock & Co. and Reich & Co: Albert E. Peacock, Esq., Keesal, Young & Logan, Anchorage, Alaska

Respondent Christine Hasslach represented herself

### **CASE INFORMATION**

Statement of Claim filed June 21, 1996

Claimant's Submission Agreement signed June 3, 1996

Joint Statement of Answer filed August 26, 1996

Respondents' Submission Agreements signed:

Fahnestock & Co.:	August 23, 1996
Reich & Co.:	August 23, 1996
Christine Hasslach:	July 12, 1996

Christine Hasslach:

July 12, 1996

### **HEARING INFORMATION**

Pre-hearing telephone conferences were held as follows:

March 19, 1997	-	1 session
April 15, 1997	-	1 session
August 25, 1997	-	1 session
September 17, 1997	-	1 session

The evidentiary hearing was held in Anchorage, Alaska, as follows:

September 23, 1997	-	2 sessions
September 24, 1997	-	2 sessions

### **CASE SUMMARY**

Claimant alleged unauthorized trading, misrepresentation, unauthorized use of margin, and lack of suitability with respect to investments in common shares of Zenagen, International Pizza and Capital Garning International. Claimant also alleged that Respondent Haaslach was not registered to sell securities in the State of Alaska at the time of the activity in Claimant's account.

Respondents denied the allegations of the claim, and asserted that all transactions in Zenagen were authorized and earned a net profit. Respondents further asserted that Claimant authorized the use of margin in her account by completing and signing the required authorization forms, as well as by trading on margin for at least a year before complaining.

### **RELIEF REQUESTED**

Claimant requested damages of approximately \$71,522, plus reasonable attorney's fees.

Respondents requested dismissal of all claims.

### **OTHER ISSUES**

The panel heard Respondents' motion to change venue by telephone conference call on April 15, 1997. The panel determined that Anchorage, Alaska, was the appropriate venue.

The panel heard Respondents' motion to postpone the hearing set for September 3-5, 1997, by telephone conference call on August 25, 1997. The panel determined to grant the postponement of September 23-24, 1997.

The panel heard Respondents' motion to dismiss by telephone conference call on September 17, 1997. The panel determined to deny the motion without prejudice to reasserting it at the evidentiary hearing.

The parties agreed to receive conformed copies of the Award while the originals remain on file with the NASDR, Inc.

In the weeks after the conclusion of the evidentiary hearing but before the receipt by the panel of the parties' post-hearing briefs on attorney's fees, the industry arbitrator withdrew from the case.

### **AWARD**

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

1. Respondents are jointly and severally liable for, and shall pay to Claimant, the sum of \$18,823.14 as compensatory damages.
2. Respondents are jointly and severally liable for, and shall pay to Claimant, the sum of \$20,000 in attorney's fees pursuant to the authority of Alaska Rule of Civil Procedure 82.
3. Respondents are jointly and severally liable for, and shall pay to Claimant, costs of \$1,104.89.
4. Respondents are jointly and severally liable for, and shall pay to Claimant, filing fees of \$650.

### **FORUM FEES**

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASDR shall return Claimant's \$150 non-refundable filing fee and \$500 hearing session deposit.


Respondents are jointly and severally assessed all forum fees, payable to NASDR, Inc.

4 pre-hearing telephone conferences at \$300 session \$1200

4 hearing session @ \$500/session

Balance due \$2000  
\$3200

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Walter P. Hitchcock

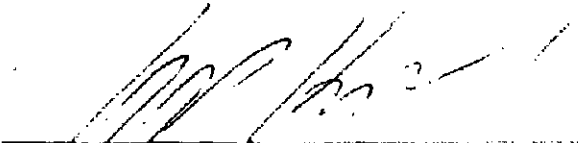
  
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James Rand Carr

Date Served: November 6, 1997

4 hearing session @ \$500/session

\$2000

Balance due \$3200

  
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Walter P. Hitchcock

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James Rand Carr

Date Served: November 6, 1997