

N.A.S.D. AWARD

9506074

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Fahnestock & Co., Inc.
Gordon & Co.
Aspen Capital Group, Inc.

93-05396

Name of Respondent

Rafi M. Khan

REPRESENTATION

For Claimants: Fahnestock & Co., Inc. ("Fahnestock") and Gordon & Co. ("Gordon") Richard F. Market located in New York, New York.

For Claimant: Aspen Capital Group ("Aspen"), Andrew Petrie located in Denver, Colorado.

For Respondent: Rafi M. Khan ("Khan") appeared pro se.

CASE INFORMATION

Statement of Claim filed by Claimants: December 29, 1993.

Claimant's Submission Agreement signed on: Gordon: January 19, 1994
Fahnestock: January 21, 1994
Aspen: January 19, 1994

Statement of Answer & Counterclaim filed by Khan on: March 17, 1994.

Khan's Submission Agreement signed on: March 10, 1994.

Khan's Amendment to Answer filed: April 4, 1994

Claimants' Reply to Counterclaim filed on: April 22, 1994.

Khan's Amendment to Counterclaim filed on: May 22, 1994.

On March 4, 1994 Claimants dismissed, with prejudice, all claims against Respondents Reynolds Kendrick Stratton, Inc., RKS Financial Group, Inc. and William R. Stratton.

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HEARING INFORMATION

Hearing Dates/Sessions:	April 26, 1995	-	2 Sessions
	April 27, 1995	-	2 Sessions
	April 28, 1995	-	2 Sessions
	May 11, 1995		2 Sessions

Hearing Location: NASD Offices, 33 Whitehall Street, New York, **NY**

CASE SUMMARY

Claimants allege Khan effected illegal buy-in transactions, in violation of NASD Uniform Practice Code, Section 59 (c)(i)(b), involving shares of Future Communications, Inc. ("FCMI"), a now bankrupt cable television company.

Claimants contend Khan was able to effect the illegal buy-in transactions by arranging for and orchestrating the participation of certain family members, friends and customers as both buyers and sellers of FCMI shares, all of whom knew of the illegal and fraudulent nature of the buy-in transactions.

Claimants also allege that the illegal buy-in transactions that were orchestrated and carried out by Khan were part of a larger fraudulent scheme involving the shares of FCMI perpetrated by Khan and others acting in concert with him. Claimants also contend Khan issued a series of false and misleading public statements and recommendations concerning FCMI, the sole purpose and intent of which was to drive up the price.

Claimants further allege that Khan knew that public announcements made by FCMI were false and Khan had knowledge of information concerning FCMI which was not yet known or available to the general public.

Claimants assert two claims against Khan. Claimants contend the conduct of Khan alleged above was in violation of section 10(b) of the Securities Exchange Act of 1934 and Rule 10-b-5 promulgated thereunder. Second, Claimant contends Khan's conduct, as alleged constituted common law fraud.

Respondent Khan denies the allegations of wrong doing and denies liability to Claimant. Additionally, Khan entered a counterclaim alleging claimants aggressively shorted FCMI stock before, during and after the reports leading to the buy-ins. Khan also alleges Claimants conspired and acted in concert to drive down the stock of small NASD companies. Khan further contends even if he is found to be liable to Claimants, California Labor Civil Code Section 2802 applies, thus mandating his employer, RKS, to indemnify him for all expenses and losses incurred.

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In response to Khan's counterclaim, Claimant denies all allegations and also submitted that, even if such allegations were true, Khan failed to state a claim for securities law violations for which he would be entitled to relief.

RELIEF REQUESTED

Claimants requested a **return** of the escrowee fund and for Fahnestock, total compensatory damages in the amount of \$2,337,048.00 for Gordon, total compensatory damages in the amount of \$2,016,000 and for Aspen, total compensatory damages in the amount of \$1,329,588 as well as interest, punitive damages, attorney's fees and costs.

Respondents requested that the statement of claim be dismissed in its entirety and the costs be assessed against claimant. Respondent also requested compensatory damages of \$2,000,000 from each Claimant, plus punitive damages and interest.

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:

All claims and counterclaims are dismissed in their entirety.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Nonrefundable filing fees:	\$ 1,000.00
Hearing Session Deposit(\$1,500.00 x 8 sessions):	\$12,000.00
Crossclaim Hearing Session Deposit:	\$ 1,500.00
Total Fees:	\$14,500.00

1. Claimant paid \$3,000.00 and jointly and severally owe \$4,250.00
2. Respondent owes \$7,250.00

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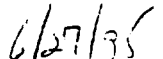
Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Name

Public/Industry


Richard P. Ryder, Esq.
Chairman


Industry

NASD DATE OF AWARD: June 29, 1995

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

Concerning Arbitrator's Signature

Name

Public/Industry


T. A. Turley
/

Industry Panelist

NASD DATE OF AWARD: June 29, 1995