

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 04-05632

Robert M. Pollock
Susan R. Pollock
Margaret Pollock

Names of the Respondents

Hearing Site: Pittsburgh, Pennsylvania

Van Kampen Funds, Inc.
National City Bank of Pennsylvania
Edward J. Pollock, Sr.
Larry J. Pollock, Sr.
Barbara Vargo

Nature of the Dispute: Customers vs. Member, Non-Member and Customers.

REPRESENTATION OF PARTIES

Claimants, Robert M. Pollock, Susan R. Pollock, and Margaret Pollock, hereinafter collectively referred to as "Claimants", were represented by John S. Cupp, Jr., Esq., Cupp and Cupp, Uniontown, Pennsylvania.

Respondent, Van Kampen Funds, Inc., was represented by David Gourevitch, Esq., Law Offices of David Gourevitch, P.C., New York, New York.

Respondent, National City Bank of Pennsylvania, was represented by Charles W. Jelley, Esq., Tremba & Jelley, Greensburg, Pennsylvania.

Respondents, Edward J. Pollock, Sr. and Larry J. Pollock, Sr, were represented by Samuel J. Davis, Esq., Davis & Davis, Uniontown, Pennsylvania.

Respondent, Barbara Vargo, was represented by Susan Foster Blank, Esq., Attorney at Law, Eighty Four, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on August 4, 2004.

Claimants signed the Uniform Submission Agreement on September 30, 2004.

Respondent Edward J. Pollock, Sr. signed the Uniform Submission Agreement on May 8, 2005.

Respondent Larry J. Pollock, Sr. signed the Uniform Submission Agreement on May 13, 2005.

Respondent Barbara Vargo signed the Uniform Submission Agreement on May 25, 2005.

Charles W. Jelley, Attorney, executed Respondent National City Bank of Pennsylvania's Uniform Submission Agreement on January 11, 2005.

Notice of Dismissal with Prejudice of Respondent Van Kampen Funds, Inc. was filed on June 9, 2005.

Respondents did not file Statements of Answer with NASD Dispute Resolution.

Respondents Edward J. Pollock, Sr. and Larry J. Pollock, Sr. filed their Motion to Dismiss on August 22, 2005.

Claimant's filed their Answer to the Motion to Dismiss on September 7, 2005.

Respondents Edward J. Pollock, Sr. and Larry J. Pollock, Sr. filed their Motion to Dismiss and Memorandum of Law on January 17, 2006.

Respondent Barbara Vargo filed her Motion for Judgment on the Pleadings on January 17, 2006.

CASE SUMMARY

Claimants asserted causes of action for breach of contract and conversion. The causes of action relate to Claimants' bank account with Respondent National City Bank of Pennsylvania.

RELIEF REQUESTED

Claimants in their Statement of Claim requested compensatory damages in the amount of \$149,527.87.

AWARD

After considering the pleadings and oral argument, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That none of the present parties to this proceeding are members of the NASD and, therefore, pursuant to NASD Code of Arbitration ("Code") Rule 10101 this Panel has no jurisdiction over the parties. Pursuant to Rule 10305 of the Code, the Claimants' claims are dismissed without prejudice and they are referred to their judicial remedies;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
3. Any and all relief not specifically addressed herein is denied in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Van Kampen Funds, Inc. is a party.

Member surcharge = \$1,700.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 waived by Panel

Pre-hearing conference: October 14, 2005 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,125.00

waived by Panel

Pre-hearing conferences: September 13, 2005 1 session

January 20, 2006 1 session

FEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee = \$ 300.00

Total Fees = \$ 300.00

Less payments = \$1,425.00

Refund Owed Claimant = \$1,125.00

2. Respondent Van Kampen Funds, Inc. is assessed and shall pay the following fees:

Member Fees = \$1,700.00

Total Fees = \$1,700.00

Less payments = \$1,700.00

Balance Due NASD Dispute Resolution = \$ 0.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Dwight A. Howes, Esq.
Robert Charkovsky, Esq.
Garry Lee Hogan

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Dwight A. Howes, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Charkovsky, Esq.
Public Arbitrator, Panelist

Signature Date

Garry Lee Hogan
Non-Public Arbitrator, Panelist

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures



Dwight A. Howes, Esq.
Public Arbitrator, Presiding Chairperson

JANUARY 23, 2006
Signature Date

Robert Charkovsky, Esq.
Public Arbitrator, Panelist

Signature Date

Garry Lee Hogan
Non-Public Arbitrator, Panelist

Signature Date

JANUARY 24, 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Dwight A. Howes, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Charkovsky
Robert Charkovsky, Esq.
Public Arbitrator, Panelist

January 23, 2006
Signature Date

Garry Lee Hogan
Non-Public Arbitrator, Panelist

Signature Date

January 24, 2006
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Dwight A. Howes, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Charkovsky, Esq.
Public Arbitrator, Panelist

Signature Date

Garry Lee Hogan
Non-Public Arbitrator, Panelist

1/23/06
Signature Date

January 24, 2006
Date of Service (For NASD Dispute Resolution office use only)