

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Francis J. Lang and
Elsie Lang

Claimants

vs.

Gallagher Capital Corp.

Respondent

CASE NO. 89-01064

SUMMARY OF ISSUES

This case was filed with the NASD on April 7, 1989. Claimants alleged that their broker failed to put them in a cash position prior to the market crash of October 1987; failed to re-enter the market to purchase positions in companies such as Intel and Oremet which reported post-crash gains of 238% and 380% respectively; failed to sell their position in Baldwin whenever there was a quick rise in price; and failed to invest their entire portfolio in Schlumberger and then sell when the price reached \$48 per share.

Respondent maintained that it does not accept discretionary accounts; that all investment decisions were made by Claimants; and that customer authorization was obtained with respect to each purchase and sale in Claimants' accounts. Respondent further maintained that the Claimants did not place orders for any of the transactions now being alleged and that Claimants have failed to state a cause of action.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages, as amended at the hearing, in the amount of \$2,096,966.00 representing lost opportunity and anticipated profits.

Respondent requested dismissal of the claim, attorney's fees and costs.

DAMAGES AND RELIEF AWARDED

On January 31, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on March 15, 1989 and the Respondent on May 24, 1989. The hearing was held in Portland, Oregon and lasted two (2) sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. The panel finds in favor of the Respondent therefore each and every claim is dismissed.

2. The parties shall each bear their respective costs including attorney's fees.

3. In accordance with Section 43 of the National Association of Securities Dealers, Inc (NASD) Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimants.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

DATE SERVED: 2/13/90

Thomas P. Joseph, Jr.

Clyde Farkman

Gary L. Feldman

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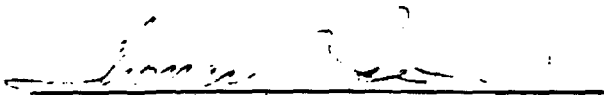
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