

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Gladys Hankla, Successor Executor of the Estate of
Vivian Murphy, deceased, assignee of Norman Nelson,
formerly Personal Representative of the Estate of
Genevieve Soller and Vivian Murphy, both deceased.

92-02216

Name of Respondents

Roger J. Lange Company, Inc., Roger J. Lange
Jan F. Lange, Aegon USA Securities f/k/a
Midamerica Management Corporation

Name of third-party respondent

Charles E. Vail

Representation of Parties

Claimant, Gladys Hankla Successor Executor ("Claimant") was represented at the hearing by David B. Radley, Esq. of Baymiller & Radley, Peoria, Illinois.

Respondents/third-party claimants, Roger J. Lange Company, Inc. ("Lange Company"), Roger Lange, and Jan Lange were represented at the hearing by Stewart Perlman, Esq., Chicago, Illinois.

Respondent Aegon USA Securities f/k/a Midamerica Management Corporation ("Aegon") was represented by Richard Wohleber, Esq. of Chapman & Cutler, Chicago, Illinois.

Third-Party Respondent Charles Vail ("Vail") was represented at the hearing by James W. Collins, Esq. of Bell, Boyd & Lloyd, Chicago, Illinois.

Case Information

The Statement of Claim was filed on December 21, 1992. Amended Statement of Claim was filed on September 22, 1993. Claimant's Submission Agreement was signed on October 16, 1992.

Joint Statement of Answer and third-party claim was filed by Respondents, Roger J. Lange Company, Inc., Roger Lange, and Jan Lange on February 16, 1993. Submission Agreement was signed on February 11, 1993 by Roger Lange on behalf of Roger Lange Company, Inc. Submission Agreement was signed on February 11, 1993 by Roger Lange. Submission Agreement was signed on February 11, 1993 by Jan Lange.

Answer to third-party claim was filed by third-party respondent, Charles Vail on September 22, 1993. Submission Agreement was signed on May 28, 1993 by Charles Vail.

Hearing Information

Prehearing conferences were held on October 20, 1993 for one (1) session and on May 4, 1994 for (1) one session.

The hearing was held on July 11, 1994 for two (2) sessions, July 12, 1994 for two (2) sessions, July 13, 1994 for two (2) sessions, January 16, 1995 for two (2) sessions, January 17, 1995 for two (2) sessions, January 18, 1995 for two (2) sessions, February 15, 1995 for two (2) sessions, February 22, 1995 for two (2) sessions in Chicago, Illinois for a total of 16 hearing sessions.

Case Summary

Claimant alleged in the Statement of Claim that Respondents, Roger Lange Company, Roger Lange, and Jan Lange (collectively "Respondents") used claimant's funds to cure the capital deficiency of Lange company or to convert and embezzle said funds by the use of fraud and deceit. Claimant also alleged that respondents disclosed by letter to claimants that their life savings would be invested in tax-free bonds and conservative money market accounts.

Claimant set forth the following violations in their Statement of Claim: common law fraud, consumer fraud, self-dealing, breach of oral contract, unsuitable investment, violation of investment advisor act of 1940, violation of NASD rules of fair practice, failure to register, Mid-America breach of duty and vicarious liability, and National Financial breach of duty and vicarious liability.

Respondents, in their Statement of Answer, generally denied the allegations set forth in the Statement of Claim. Respondents stated that claimant fails to state any claim for which relief can be granted. Respondents stated in their Answer that third-party respondent, Charles Vail, is responsible for the allegations contained in the claim.

9501160

NASD Award 92-02216

Page 3 of 5

In their third-party claim, respondents/third-party claimants, Langes, alleged that third-party respondent Charles Vail should be held liable for the wrongdoing since he was the primary contact with claimant.

Third-party respondent Charles Vail stated in his Answer to the third-party claim that respondents/third-party claimants are liable since he sought their expertise and they held themselves out as qualified and duly licensed to render investment advisory services including the purchase and sale of securities.

Relief Requested

Claimant requested damages in the amount of \$537,000.00 or more, attorney's fees, punitive damages, interest and costs.

Respondents/third-party claimants, Roger Lange Company, Roger Lange, and Jan Lange requested that the claim be dismissed and that costs, attorney's fees and arbitration fees be assessed against claimant. Respondents also requested that if any award is rendered on behalf of claimant against any of them, or all of them that such award be made against Charles Vail, or in the alternative that the entire claim be dismissed as a claim by Charles Vail against Charles Vail so that the claim is moot, plus all costs, expenses, attorney's fees and other such amount that may be awarded to respondents and third-party claimants, Roger J. Lange Company, Roger Lange, and Jan Lange.

Third-party respondent Charles Vath requested that the third-party claim be dismissed with prejudice and that costs, attorney's fees and arbitration fees be assessed against third-party claimants.

Other Issues Considered and Decided

Prior to the hearing, Respondent Aegon settled with the claimant and accordingly was dismissed and did not participate in the arbitration.

Mid-America Management Corporation and its subsidiary, National Financial Services Corporation were named as respondents in the arbitration. Claimant dismissed them without prejudice, prior to the hearing.

The parties present at the hearing have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

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 panel finds that Respondents, Roger J. Lange, Jan F. Lange, and Roger J. Lange Company, Inc., committed fraud or defalcation while acting in a fiduciary capacity in causing loss to Genevieve Soller and Vivian Murphy, as alleged in the Statement of Claim. Therefore,

1. Respondents, Roger Lange Company, Inc., Roger Lange, and Jan Lange, shall be and hereby are jointly and severally liable for, and shall pay to the Claimant as follows:

a. Damages in the principal amount of Three Hundred Seventy Five Thousand, Three Hundred Ninety Seven Dollars and No Cents (\$375,397.00);

b. Attorney's fees in the amount of One Hundred Twenty Five Thousand, One Hundred Thirty Two Dollars and No Cents (\$125,132.00);

c. Interest at ten percent (10%) per annum from June 20, 1990 in the amount of One Hundred Seventy Four Thousand, Eight Hundred Thirty Nine Dollars and No Cents (\$174,839.00). Interest shall continue to be paid until the date the award is paid;

2. The third-party claim filed against third-party respondent, Charles Vail, is denied and dismissed;

3. Each of the parties shall bear their own costs and expenses, other than those specifically enumerated under Forum Fees.

Forum Fees

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

16 hearing sessions X \$1000 = \$16,000 minus \$1000 hearing session deposit = \$15,000 plus \$600 for two prehearing conference sessions = net \$15,600 due to the NASD.

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$250, and shall retain the hearing session deposit in the amount of

9501160

NASD Award 92-02216

Page 5 of 5

\$1000 previously paid to the NASD by the Claimant. The NASD shall also retain the nonrefundable filing fee in the amount of \$250 for the third-party claim. and shall retain the hearing session deposit in the amount of \$600 for the third-party claim and will be applied toward the forum fees due to the NASD.

The additional forum fees in the amount of \$15,000 are assessed against Respondents, Roger J. Lange Company, Inc., Roger J. Lange, and Jan F. Lange, jointly and severally.

The additional forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

4/11/95

s/s Joseph O. Kostner
Joseph O. Kostner, Esq.
Presiding, Public Arbitrator

4/6/95

s/s Bernard Doyle
Bernard F. Doyle, Jr., Esq.
Public Arbitrator

4/8/95

s/s Ramona Larson
Ramona V. Larson
Industry Arbitrator

Date Award Served By The NASD: 4/21/95

9501160

Arbitrator's Disciplinary Referral

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Gladys Hankla, Successor Executor of the Estate of Vivian Murphy, deceased,
assignee of Norman Nelson, formerly Personal Representative of the Estate
of Genevieve Soller and Vivian Murphy, both deceased.

92-02216

Name of Respondents

Roger J. Lange Company, Inc., Roger J. Lange,
Jan F. Lange, Aegon USA Securities f/k/a
Midamerica Management Corporation

Names of third-party Respondent

Charles E. Vail

Arbitrator's Disciplinary Referral

The arbitrators who presided in the above-captioned matter heard testimony and evidence at hearings conducted in July 1994, January 1995 and February 1995 and hereby make the following referral to the appropriate NASD District office for their review:

1. Roger J. Lange & Company, Roger J. Lange, and Jan F. Lange:
 - (i) finding by the arbitrators of violation of fiduciary duty, and
 - (ii) allegations of forgery and alterations of documents.
2. Jan Lange: admissions of false notarial acknowledgements to client documents.

By The Panel:

Dated:

4/11/95

s/s Joseph Kostner

Joseph O. Kostner, Esq.
Presiding, Public Arbitrator

4/6/95

s/s Bernard Doyle

Bernard F. Doyle, Jr., Esq.
Public Arbitrator

4/8/95

s/s Ramona Larson

Ramona V. Larson
Industry Arbitrator