

book

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Rauscher Pierce Refsnes Inc.

No. 93-00307

Name of Respondent

Harold Langer

REPRESENTATION OF PARTIES

Claimant, Rauscher Pierce Refsnes, Inc. was represented by James T. Ritt, Esq., of Rauscher, Pierce, Refnes, Inc., Dallas, Texas.

Respondent, Harold Langer was represented by Marshall D. Tandy, Esq. of Tucson, Arizona.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on January 26, 1993.

Claimant, Rauscher Pierce Refsnes' Submission Agreement was signed on January 20, 1993 by James T. Ritt, Vice President and Director of Legal and Compliance.

The Statement of Answer and Counterclaim was filed by Respondent, Harold Langer on March 23, 1993.

Respondent, Harold Langer's Submission Agreement was signed on March 24, 1993.

Claimant, Rauscher Pierce Refsnes, Inc. filed a reply to the Counterclaim on April 13, 1993.

HEARING INFORMATION

The hearing date was October 5, 1993 and the hearing lasted for two (2) hearing sessions.

The hearing location was Scottsdale, Arizona.

NASD ARBITRATION NO. 93-00307
AWARD Page 2 of 4

CASE SUMMARY

Claimant, Rauscher Pierce Refsnes, Inc. ("RPR") alleged that Respondent, Harold Langer ("Langer") became employed by RPR on or about November 3, 1987 as a registered representative with Shearson Lehman Brothers. On or about November 2, 1987, RPR alleged that Langer executed a promissory note in the principal amount of \$60,000. Langer terminated his employment with RPR on or about January 3, 1992. Under the terms of the promissory note, if Langer terminated his employment prior to November 2, 1993, the amount of \$12,000 remained due and owing. RPR asserted that it made demand for payment of this sum and Langer had refused to pay the amount.

Langer denied the allegations of the claim and asserted that RPR breached the agreement by failing to make the work environment at RPR's one which was not offensive to him. Langer asserted a Counterclaim for damages due to discrimination against him. Langer alleged that an offensive work environment was created by certain employees of RPR who made anti-semitic remarks in the presence of Langer. The offensive work environment was allegedly the reason that Langer had to leave his employment with RPR.

RPR denied the allegations of the Counterclaim and denied that knowledge of, acquiescence in or tolerance of any of the statements attributed by Langer to be of an anti-semitic nature.

RELIEF REQUESTED

RPR requested an award of \$12,000 plus interest, attorney's fees and costs under the terms of the promissory note. At the hearing on October 5, 1993, RPR requested an amendment to the Claim amount to include an additional promissory note signed by Langer in the amount of \$2500.00. The panel allowed this amendment and the total amount of damages sought by RPR was \$14,500.00.

Langer requested dismissal of the Claim and Counterclaimed for \$60,800.00.

OTHER ISSUES CONSIDERED & DECIDED

The Arbitration panel considered RPR's request to amend the Statement of Claim at the hearing over objection by Langer. The panel determined to allow the amendment pursuant to Section 39(b) of the NASD Code of Arbitration Procedure.

The parties 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 remain on file with the NASD.

NASD ARBITRATION NO. 93-00307
AWARD Page 3 of 4

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:

RPR'S CLAIM

1. Langer is liable for and shall pay to RPR, the principal sum of Ten Thousand Dollars and No Cents (\$10,000.00) on the promissory note dated November 2, 1987, together with interest at the rate of 12% per annum from and inclusive of January 3, 1992 until payment is submitted to RPR by Langer;

2. Langer is also liable for and shall pay to RPR, the principal sum of Two Thousand Five Hundred Dollars and No Cents (\$2500.00) on the promissory note dated December 31, 1988, together with interest at the rate of 12% from and inclusive of January 3, 1992 until payment is submitted to RPR by Langer;

LANGER'S COUNTERCLAIM

3. RPR is liable for and shall pay to Langer, the sum of Ten Thousand Dollars and No Cents (\$10,000.00) on his Counterclaim; and.

4. The parties shall each bear their own costs, expenses and attorney's fees incurred in this matter.

FORUM FEES

Pursuant to Section 44(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$500.00; and shall retain the hearing session deposit in the amount of \$600.00 previously paid to the NASD by RPR. The NASD shall also retain the \$500.00 non-refundable counterclaim filing fee and the \$600.00 hearing session deposit previously deposited with the NASD by Langer. Forum Fees were calculated at the rate of \$600.00 per hearing session for two (2) hearing sessions.

NASD ARBITRATION NO. 93-00307
AWARD Page 4 of 4

No additional Forum Fees were assessed in this matter.

CONCURRING ARBITRATORS

October 23, 1993
Dated

/S/ Mark Liebsohn
Mark Liebsohn, Esq.
Presiding Chairperson
Industry Arbitrator

October 25, 1993
Dated

/S/ Paul L. Solomon
Paul L. Solomon
Panelist
Industry Arbitrator

October 26, 1993
Dated

/S/ Neal Van Zutphen
Neal Van Zutphen
Panelist
Industry Arbitrator

Date Award Served on the Parties by the NASD: October 29, 1993