

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Richard and Elizabeth Lange

95-02881

Name of Respondents

Elliot Fisher (a/k/a Ilya Fisher)
Cartwright & Walker Securities, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 14, 1995, Claimants Richard and Elizabeth Lange ("Claimants"), through their representative, Michael W. Pursley, of Arbitration Research Consultants, Inc., located in Safety Harbor, FL, alleged that on July 29, 1994, Respondents Elliot Fisher a/k/a Ilya Fisher ("Fisher"), and Cartwright & Walker Securities, Inc. ("CWS"), convinced them to purchase 500 shares of Health and Wealth, Inc. ("HWI"), to their detriment. Claimants further alleged that they received from the Respondents a pre-confirmation letter and a confirmation statement which listed the price per share in different amounts. Claimants contended that Richard Lange ("Lange") contacted CWS's offices and was told that the price had gone up between the time the stock was bought and the time they paid for it and they would have to pay the higher price. Claimants further contended that after the transaction was paid they discovered that only 475 shares of HWI were purchased at the higher price instead of the 500 which they were told had been purchased. Claimants further contended that Lange phoned CWS's offices on September 20, and October 24, of 1994 and gave instructions to Mr. Oleg to have the stock sold but this instruction was not followed. Claimants alleged the several attempts were made to have the stock sold but they were unsuccessful. Claimants further alleged that as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondent Elliot Fisher, who appeared Pro Se, maintained that he never spoke with the Claimants nor did he attempt to sell them securities. Respondent further maintained that he never opened their account nor did he take account information from them. Respondent contended that he was not in the Los Angeles office of CWS during July through September of 1994 but was in their New York office. Respondent further contended that in late September and October of 1994, he was on vacation and was not conducting business. Respondent maintained that he has also been named incorrectly in three other arbitrations which had events occurring around the same time period. Respondent further maintained that Richard H. Gavzie had opened as many as 45 accounts at CWS using his name. Respondent contended that these accounts were opened without his knowledge or consent. Respondent further contended that as a result of the above, he should not be held liable.

Respondent Cartwright & Walker Securities, Inc., failed to file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimants Richard and Elizabeth Lange, requested \$2,767.52 in actual damages, plus punitive damages and fees..

Respondent Elliot Fisher, requested that the claims of the Claimants be dismissed.

Respondent Cartwright & Walker Securities, Inc., failed to file a Statement of Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Cartwright & Walker Securities, Inc., was served by regular mail and given an opportunity to respond, which it failed to do. In addition, an overdue answer notice and notice of the identity of the arbitrator were sent certified mail but the signature card was not returned.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Cartwright & Walker Securities, Inc., has notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Herbert L. Blume, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Richard and Elizabeth Lange, on February 15, 1995, and not by the Respondents, as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

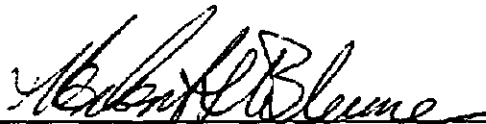
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants Richard and Elizabeth Lange, against the Respondent Elliot Fisher, are denied in their entirety.
2. The Respondent Cartwright & Walker Securities, Inc., is liable and shall pay to the Claimants Richard and Elizabeth Lange, \$2,767.52 in actual damages.
3. The Respondent Cartwright & Walker Securities, Inc., is liable and shall pay to the Claimants Richard and Elizabeth Lange, interest at the rate of 12% per annum from August 5, 1994, to date of payment of the award.

4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Richard and Elizabeth Lange, shall be retained by the NASD, Inc. The Respondent Cartwright & Walker Securities, Inc., shall pay to the Claimants Richard and Elizabeth Lange, \$125.00 as reimbursement of the filing fee.
5. All other relief requests are denied.
6. The parties shall bear their respective costs.

AFFIRMATION

I, **HERBERT L. BLUME**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, appearing to read 'Herbert L. Blume', is written over a horizontal line.

Herbert L. Blume

DATE OF DECISION: March 21, 1996