

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
20TH JUDICIAL DISTRICT, DAVIDSON COUNTY

ANNE B. POPE, as Liquidator of)
Franklin American Life Insurance)
Company;)
))
GEORGE DALE, as Liquidator of First)
National Life Insurance Company, Family)
Guaranty Life Insurance Company and)
Franklin Protective Life Insurance)
Company;)
))
KEITH WENZEL, as Liquidator of)
International Financial Services Life)
Insurance Company; and)
))
CARROLL FISHER, as Receiver of)
Farmers & Ranchers Life Insurance)
Company, in Liquidation,)
))
Plaintiffs,)
))
v.)
))
JOHN M. JORDAN, W. WILLIAM DAVIS)
and DAVIS & JORDAN, P.A.,)
))
Defendants.)

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JURY DEMANDED
Case No. 00-1371 ~~H~~

COMPLAINT

I. Introduction

COME NOW, Anne B. Pope, Commissioner of Commerce and Insurance for the State of Tennessee, in her capacity as Liquidator of Franklin American Life Insurance Company ("FAL"); George Dale, Commissioner of Insurance for the State of Mississippi, in his capacity as Liquidator of First National Life Insurance Company of America ("FNI"), Family Guaranty Life Insurance Company ("FGL") and Franklin Protective Life Insurance Company ("FPL"); Keith Wenzel, Director of Insurance for the State of Missouri, in his capacity as Liquidator of International Financial Services Life Insurance Company ("IFS"); and Carroll Fisher, Commissioner of Insurance for the State of Oklahoma, in his capacity as Receiver of Farmers and Ranchers Life Insurance Company, in Liquidation, formerly Farmers and Ranchers Life Insurance Company ("F & R"), by and through their attorneys of record herein, and file this Complaint alleging counts of professional negligence as against the Defendants.

II. Parties

1. Franklin American Life Insurance Company is a life insurance company domiciled in the State of Tennessee which has been subject to an Agreed Order of Liquidation in the Chancery

Court of Davidson County, Tennessee since October 22, 1999 (State of Tennessee ex rel Pope v. Franklin American Life Insurance Company, #99-1326-II) Plaintiff Pope is the statutory Receiver/Liquidator of that entity. As such, she is vested, by operation of law, with title to all of the rights of action of FAL.

2. First National Life Insurance Company of America, Family Guaranty Life Insurance Company, and Franklin Protective Life Insurance Company are life insurance companies domiciled in the State of Mississippi which have been subject to an Order of Liquidation in the Chancery Court of Hinds County, Mississippi since June 29, 1999 (Dale v. First National Life Insurance Company, #G99-908, Dale v. Family Guaranty Life Insurance Company, #G99-909, and Dale v. Franklin Protective Life Insurance Company, #G99-907). Plaintiff Dale is the statutory Receiver/Liquidator of those entities. As such, he is vested, by operation of law, with title to all of the rights of action of FNL, FGL and FPL.

3. International Financial Services Life Insurance Company is a Missouri domiciled insurance company that has been subject to an Order of Liquidation in the Circuit Court of Cole County, Missouri since November 30, 1999 (Wenzel v. International Financial Services Life Insurance Company, #199-623CC). Plaintiff Wenzel is the statutory Receiver/Liquidator of that entity. As such, he is vested, by operation of law, with title to all of the rights of action of IFS.

4. Farmers and Ranchers Life Insurance Company is an Oklahoma domiciled insurance company that has been subject to an Order of Liquidation in District Court for Oklahoma County, Oklahoma since January 14, 2000 (Fisher v. Farmer and Ranchers Life Insurance Company, #CJ-99-3401-61). Plaintiff Fisher is the statutory Receiver of that entity. As such, he is vested, by operation of law, with title to all the rights of action of F & R.

5. Defendant John M. Jordan is a licensed attorney in the State of Tennessee and is a citizen and resident of Davidson County, Tennessee.

6. Defendant W. William Davis is a licensed attorney in the State of Tennessee and a resident of Davidson County, Tennessee.

7. Defendant Davis & Jordan, P.A. is a professional association or partnership located at 5210 Maryland Way, Brentwood, Williamson County, Tennessee.

III. Jurisdiction and Venue

8 Subject matter jurisdiction is appropriate in this Court pursuant to T.C.A. § 16-11-102.

9. Personal jurisdiction over the Defendants exist in that Jordan & Davis is a Tennessee entity located in Tennessee and Mr. Jordan and Mr. Davis are residents and citizens of the State of Tennessee.

10. Venue is appropriate in this judicial district pursuant to T.C.A. § 20-4-101. Mr. Jordan and Mr. Davis are living in this judicial district and Jordan & Davis, P.A. have sufficient contacts in this district to constitute being found herein.

IV. Factual Allegations

11. At all times relevant to this matter, Defendants were primary counsel for FAL, FNL, FGL, FPL, IFS, and F & R ("Insurance Companies"). Specifically, Defendants were engaged to provide legal representation to the Insurance Companies in all corporate and regulatory matters associated with the business of the Insurance Companies, including - - but not limited to - - matters pertaining to corporate acquisitions, transaction of insurance business in the various states, asset transactions, and reporting requirements to appropriate federal and state regulatory agencies.

12. In 1991, an entity Thunor Trust was established as a Tennessee trust with John A. Hackney as its sole trustee. Upon information and belief, this trust was formed with the legal assistance of Defendant Jordan.

13. The purpose of the trust was to provide funds for the purchase of FAL (and later the other Insurance Companies). The three individuals (i.e. a Mr. Ed Kraus, a Mr. Shuki and a Ms. Sonia Dix Howe Schulte) identified as grantors of Thunor Trust, and who supposedly contributed monies to that trust to effect its purpose of purchasing Insurance Companies, have all denied making material contributions to the trust. In essence, it is believed and thus alleged that the Thunor Trust was funded by Martin Frankel.

14. The Insurance Companies are all insolvent and in receivership proceedings in their domiciliary states. This insolvency was caused by virtue of a fraudulent scheme perpetrated by Martin Frankel and perhaps others generally in the following fashion. Upon the acquisition by the Thunor Trust of an Insurance Company, the policy reserves and subsequently the premium dollars

were purportedly transferred to an entity Liberty National Securities (LNS) ostensibly for investment purposes. LNS was controlled, however, by Martin Frankel. In actuality, the funds supposedly sent to LNS for investment purposes were sent initially to various brokerage houses in accounts controlled by Frankel and then sent to Swiss bank accounts and/or other international sources controlled by Frankel.

15. As primary counsel to the Insurance Companies, Defendants were engaged to provide competent representation in all corporate and regulatory matters associated with the insurance companies. With respect to this engagement, Defendants were required to possess reasonable, appropriate and accurate knowledge of: (1) the regulatory requirements imposed by the various state departments of insurance upon life insurance companies in the various states (including, but not limited to, regulations pertaining to the capitalization of, assets of, and investment of assets of life insurance companies), (2) the regulatory requirements imposed by various federal agencies (including, but not limited to, the Securities and Exchange Commission) with respect to asset transactions and reporting requirements thereof, and (3) the specific nature of the business operations and transactions of the Insurance Companies (including, but not limited to, the Companies' compliance with regulations pertaining to the capitalization of, assets of, and investment of assets of life insurance companies).

16. Defendants failed to discharge their professional duties to the Insurance Companies in a competent and reasonable manner.

17. Plaintiff has been informed, and upon such information believes, that Defendants did not possess reasonable, appropriate and accurate knowledge of: (1) the regulatory requirements imposed by the departments of insurance upon life insurance companies in the various states, (2) the regulatory requirements imposed by various federal agencies with respect to asset transactions and reporting requirements thereof, or (3) the specific nature of the business operations and transactions of the Insurance Companies. Moreover, Defendants took no steps to acquire such knowledge and, thereby, competency to accept representation of the Insurance Companies.

18. On information and belief, as part of their representation of the Insurance Companies, Defendants assisted in the preparation, review and filing with the Securities and Exchange Commission certain reports required by the SEC to accurately reflect asset transactions by various of the Insurance Companies. As prepared by Defendants, such reports did not accurately reflect

such transactions, and did not reflect the nearly continuous "day-trading" of Insurance Company assets in the LNS "accounts."

19. On information and belief, as part of his representation of the Insurance Companies, Defendants failed to appropriately advise the Insurance Companies of the regulations imposed upon the investment and deposit of assets and premiums of life insurance companies. Defendants further failed to make appropriate inquiry with the Insurance Companies as to the nature and scope of investments and deposits of the companies' assets.

20. In addition, Defendant Jordan placed himself in the position of accepting conflicting representations to the financial detriment and injury of the Insurance Companies.

21. On or about October 14, 1994, certain residential real property located at 211 Third Avenue, South, in Williamson County, Tennessee, was conveyed by James E. Bradford and Christine S. Bradford to an entity known as "Middleburg Investment, Ltd." Middleburg Investment is a business entity established under the laws of the British Virgin Islands. Upon information and belief Defendants assisted in the creation of this BVI entity. Plaintiffs have been informed, and upon such information believe, that Middleburg Investment was established, in part, for the purpose of holding title to this residential real property.

22. While this real property was titled in the name of Middleburg Investment, the property was occupied by John Hackney, i.e., the "trustee" of the Thunor Trust and the CEO/President of the various Insurance Companies. Indeed, Plaintiffs have been informed, and upon such information believe, that the property was purchased by the Thunor Trust as a "bonus" to Hackney, something which Defendant Jordan admits to knowing. The funds utilized to purchase this real property were wired from a certain international account controlled by Frankel wherein assets of the Insurance Companies had been placed. These monies were received into an escrow account controlled by Defendants. In this respect, the funds utilized to purchase this property in the name of Middleburg Investment, and for the enjoyment and benefit of John Hackney, were funds belonging to the Insurance Companies.

23. In addition to assisting in the establishment of Middleburg Investments, Defendant Jordan also acted as a closing attorney on this real estate transaction. In this regard, Defendant Jordan represented parties whose interests were directly adverse to those of the Insurance

Companies, and facilitated the use of assets of the Insurance Companies to consummate this real estate transaction, thereby resulting in financial injury to the Insurance Companies.

24. Plaintiffs also assert that amendment of this Complaint will in all likelihood present additional factual allegations of professional negligence against Defendants arising from the transactions and occurrences of Defendants' representation of the Insurance Companies. To that end, Plaintiffs note that Defendants have declined to respond to subpoenas duces tecums, issued in conjunction with the FAL receivership and served upon them in relation to production of documents regarding their representation of the Insurance Companies.

COUNT I.

25. Paragraphs 1 through 24 are hereby incorporated as if reiterated verbatim.

26. During the course of their representation of the Insurance Companies, Defendants failed to exercise reasonable care to provide adequate and competent representation to the company.

27. In the course of their professional representation of the Insurance Companies, Defendants failed to provide competent legal services to their clients and committed professional malpractice to the financial detriment and injury of the Insurance Companies.

28. As an additional consequence of Defendants' failure to exercise reasonable care, the Insurance Companies were deprived of good and valuable legal services, for which they paid, and continued to incur additional debts, obligations, and claims to the financial detriment of the Insurance Companies, and for which the receivership estates are being held accountable.

PRAYERS FOR RELIEF

WHEREFORE, the Plaintiffs do hereby pray for relief against Defendants as follows:

- a. a trial by jury of appropriate number;
- b. a finding of liability as against the Defendants concerning counts of professional negligence alleged herein or as later amended;
- c. compensatory damages in an amount to be proven at trial;
- d. any and all other damages which the Plaintiffs may subsequently prove.

Together with all of its costs of litigation, pre-judgment interest, and all other relief to which the Plaintiffs may otherwise be entitled.

Respectfully submitted,

J. G. Matherne
 William W. Gibson, #9049
 J. Graham Matherne, #11294
 Andrew B. Campbell, #14258
WYATT, TARRANT & COMBS
 511 Union Street, Suite 1500
 Nashville, Tennessee 37219
 (615) 244-0020
Counsel for Plaintiff Pope

Charles G. Copeland (by G. Matherne)
 Charles G. Copeland *w/permission*
 Robert C. Richardson #13041
COPELAND, COOK, TAYLOR & BUSH, P.A.
 200 Concourse, Suite 200
 1062 Highland Colony Parkway
 Ridgeland, Mississippi 39157
Counsel for Plaintiff Dale

Douglas Schmidt (by G. Matherne)
 Douglas Schmidt *w/permission*
BLACKWELL SANDERS, PEPPER, MARTIN
 230 Main Street, Suite 1000
 Kansas City, Missouri 64108
Counsel for Plaintiff Wenzel

Susan M. Loving (by G. Matherne)
 Susan M. Loving *w/permission*
LESTER, LOVING & DAVIES
 1505 S. Renaissance Boulevard
 Edmond, Oklahoma 73103
Counsel for Plaintiff Fisher