

[J-16-00]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

SANDRA J. BASILE AND LAURA : No. 44 E.D. Appeal Dkt. 1999
CLAVIN, INDIVIDUALLY AND ON :
BEHALF OF ALL OTHERS SIMILARLY :
SITUATED : Appeal from the Judgment of Superior
: Court entered 03/03/99 at No. 585 PHL
: 1998, reversing as to H&R Block; affirming
v. : as to Mellon Bank the Order entered
: 05/30/97 in the Court of Common Pleas,
: Philadelphia County, Civil Division at No.
H&R BLOCK, INC., H&R BLOCK : 3246 April Term, 1993
EASTERN TAX SERVICES, INC. :

APPEAL OF: H&R BLOCK, INC. AND :
H&R BLOCK EASTERN TAX SERVICES, :
INC. :

SANDRA J. BASILE AND LAURA : No. 45 E.D. Appeal Dkt. 1999
CLAVIN, INDIVIDUALLY AND ON :
BEHALF OF ALL OTHERS SIMILARLY :
SITUATED : Appeal from the Judgment of Superior
v. : Court entered 03/03/99 at No. 586 PHL
: 1998, reversing the Order granting
: summary judgment entered on 12/31/97 in
H&R BLOCK, INC., H&R BLOCK : the Court of Common Pleas, Philadelphia
EASTERN TAX SERVICES, INC., AND : County, Civil Division at No. 3246 April
MELLON BANK (DE) : Term, 1993

APPEAL OF: H&R BLOCK, INC., AND :
H&R BLOCK EASTERN TAX SERVICES, :
INC. :

SANDRA J. BASILE AND LAURA : No. 46 E.D. Appeal Dkt. 1999
CLAVIN, INDIVIDUALLY AND ON :
BEHALF OF ALL OTHERS SIMILARLY :
SITUATED : Appeal from the Judgment of Superior
: Court entered 03/03/99 at No. 710 PHL

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| <p>v.</p> <p>H&R BLOCK, INC., H&R BLOCK EASTERN TAX SERVICES, INC., AND MELLON BANK, (DE) NATIONAL ASSOCIATION</p> <p>APPEAL OF: H&R BLOCK, INC., AND H&R BLOCK EASTERN TAX SERVICES, INC.</p> <p>SANDRA J. BASILE AND LAURA CLAVIN, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED</p> <p>v.</p> <p>H&R BLOCK, INC., H&R BLOCK EASTERN TAX SERVICES, INC., AND MELLON BANK, (DE) NATIONAL ASSOCIATION</p> <p>APPEAL OF: H&R BLOCK, INC., AND H&R BLOCK EASTERN TAX SERVICES, INC.</p> | <p>: 1998, affirming the Order entered on : 1/17/96 in the Court of Common Pleas, : Philadelphia County, Civil Division at No. : 3246 April Term, 1993</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>No. 47 E.D. Appeal Dkt. 1999</p> <p>:</p> <p>: Appeal from the Judgment of Superior : Court entered 03/03/99 at No. 711 PHL : 1998, reversing as to H&R Block; affirming : as to Mellon Bank the Order entered on : 05/30/97 in the Court of Common Pleas, : Philadelphia County, Civil Division at No. : 3246 April Term, 1993</p> <p>:</p> <p>:</p> <p>: Argued: February 1, 2000</p> |
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DISSENTING OPINION

MR. JUSTICE SAYLOR

DECIDED: November 22, 2000

I agree with the majority that, to the extent that refund anticipated loans (“RALs”) are viewed as discrete transactions, no agency relationship between Block and its customers would be discernible. Like the majority, I would not be inclined to conclude,

extrinsic of an existing, underlying agency relationship, that a separate agency role is necessarily undertaken by one who merely facilitates a lending transaction. Nevertheless, I join that portion of Mr. Justice Nigro's analysis which concludes, as did the Superior Court, that an agency relationship existed between Block and Appellees for the purposes of preparing Appellees' tax returns, filing them with the IRS, and obtaining refunds. Indeed, I note that H&R Block conceded as much, at least for purposes of Maryland law, in Green v. H&R Block, Inc., 735 A.2d 1039, 1049 (Md. 1999). I also believe that the fiduciary duties associated with such relationship may be viewed as sufficiently broad to compel disclosure of aspects of self-interest in a related loan transaction. Thus, I would affirm the order of the Superior Court remanding "for disposition of questions of fact concerning the extent to which Block's failure to disclose the nature of the Rapid Refund program and its participation in the profits generated by the RALs constituted a violation of Block's duty as an agent." Basile v. H & R Block, Inc., 729 A.2d 574, 582 (Pa. Super. 1999).