

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

Name of Claimant

First of Michigan Corporation

93-00007

Name of Respondent

Wank Enterprises Inc.

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**REPRESENTATION**

For Claimant: First of Michigan Corporation ("First") was represented by Michael C. Fayz, Esq. of Miller, Canfield, Paddock and Stone, located in Detroit, Michigan.

For Respondent: Wank Enterprises Inc. ("Wank") was represented by Thomas P. Hogan, Esq. of Rhoades, McKee, Boer, Goodrich & Titta, located in Grand Rapids, Michigan.

**CASE INFORMATION**

Statement of Claim filed: January 4, 1993.

Claimant's Submission Agreement signed on: December 23, 1992 by John G. Martin, President and Chief Executive, First of Michigan Corporation.

Statement of Answer filed by Respondent on: January 21, 1993.

Respondent's Submission Agreement signed on: January 25, 1993 by Ward E. Duyser, President, Wank Enterprises, Inc.

**HEARING INFORMATION**

Pre-Hearing Conference: None Held.

Hearing Date/Sessions: July 20, 1994 for One (1) session.

Hearing Location: Grand Rapids, Michigan.

### **CASE SUMMARY**

Claimant alleged that Respondent Wank, through its president, Ward Duyser, authorized the purchase of 5,000 shares of Bestop at \$9.00 per share on August 13, 1992. Upon the Respondent's refusal to pay for these shares, the Claimant, as required by regulations, had to liquidate these shares. A loss of \$8,588.42 was incurred by the Claimant in the purchase and sale of this stock.

Respondent denied the material allegations of the Statement of Claim, asserting that the purchase of these 5,000 shares of Bestop was not authorized since the intended purchase was contingent upon certain conditions which were not met. Upon learning that this purchase had been made on or about August 20, 1992, the Respondent instructed that these be sold. The shares were sold on or about September 15, 1992, resulting in the loss described above.

### **RELIEF REQUESTED**

Claimant requested entry of an award for damages totaling \$8,588.42 plus interest, costs and attorneys' fees.

Respondent denied any damages arising from the claim of the claimant, and requested an award of costs plus reasonable attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy 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 arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The claim of the Claimant, First of Michigan Corporation, is dismissed with prejudice and denied in its entirety;
2. Each party is liable for their own costs incurred in this arbitration, including attorneys' fees, except for those specifically enumerated herein; and
3. All relief not specifically granted is hereby denied.

**OTHER COSTS**

Pursuant to Section 39 of the NASD Code of Arbitration Procedure, Claimant First of Michigan Corporation is liable for and shall pay to the NASD the adjournment fee of \$300.00 incurred in postponing the hearing scheduled for September 9, 1993.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) session x \$300.00 per session = \$300.00.

The National Association of Securities Dealers, Inc. shall retain the \$500.00 claim filing fee and the \$300.00 hearing sessions deposit previously deposited by the Claimant, First of Michigan Corporation.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator's Signature

Name

Date

/s/ Donald A. Edwards, Esq.  
Donald A. Edwards, Esq.  
Public Arbitrator

August 2, 1994

For NASD Use Only

Date of Decision: 8-8-94