

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimant**

Ruth Gordon

Case No. 93-04412

**Name of Respondent**

Josephthal, Lyon & Ross Inc.

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**REPRESENTATION**

For Claimant, Ruth Gordon, ("Gordon"): Ronald W. Fraley, Esq. of Fraley & Fraley, P.A. of Tampa, Florida.

For Respondent, Josephthal, Lyon & Ross Inc. ("Josephthal"): Robert E. Murphy, Esq., Corporate Counsel for Josephthal.

**CASE INFORMATION**

Statement of Claim filed: October 26, 1993.

Claimant's Submission Agreement signed on: October 21, 1993.

Statement of Answer filed by Respondent, Josephthal on: January 10, 1994.

Respondent's Submission Agreement filed on: January 10, 1994.

**HEARING INFORMATION**

On June 17, 18, and 19, 1996 in Tampa, Florida, hearings lasting eight (8) sessions were conducted.

### **CASE SUMMARY**

Claimant, alleged that Respondent, Josephthal discriminated against her because of sex throughout her employment with Respondent and that her discharge on September 4, 1991 was a result of this treatment. Claimant further alleged that she worked in a sexually hostile work environment and was treated differently and disciplined for her participation in transactions that were as much the responsibility of her partner, Bob Jones. Claimant states that Mr. Jones suffered no disciplinary action for the same allegedly improper conduct.

Respondent alleged that Claimant, Gordon did not present sufficient evidence to demonstrate that Respondent terminated Claimant on the basis of her sex, to wit that Respondent violated Title VII of the Civil Rights Act, as amended, by terminating Claimant from her employment. Claimant also did not present sufficient evidence to prove that she was subjected to a hostile work environment within the meaning of Title VII of the Civil Rights Act, as amended.

Respondent counterclaimed for breach of contract.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of one hundred and forty thousand (\$140,000.00),

Respondent requested that the Statement of Claim be dismissed with costs and expenses awarded to Respondent and requested damages on the counterclaim in the amount of \$50,000.00.

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

1. The parties have agreed that the Award in this matter may be executed in 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 originals remain on file with the NASD.
2. During the course of the above proceeding Claimant withdrew her claim for Tortious Interference with Business Relationships.
3. During the course of the above proceeding, Respondent withdrew its counterclaim for breach of contract and punitive damages.

### **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:

1. The claim for Hostile Working Environment is hereby dismissed.
2. The claim for Sex Discrimination Throughout Employment by Respondent is hereby dismissed.
3. The claim for Termination Based on Discrimination by Reason of Sex is hereby dismissed.
4. Respondent's request for costs and expenses are hereby denied.

#### **OTHER COSTS**

Other than as provided below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

#### **FORUM FEES**

Pursuant to Section 44c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of six thousand dollars (\$6,000.00) (8 sessions x \$750.00 ).

Respondent is hereby assessed forum fees in the amount of six thousand dollars (\$6,000.00), of which seven hundred and fifty dollars (\$750.00) shall be paid directly to the Claimant as a refund of her hearing session deposit. The NASD shall retain the \$750.00 hearing session deposits paid by Claimant and the \$750.00 hearing session deposit paid by Respondent in partial satisfaction of such form fees leaving a balance due the NASD of four thousand five hundred dollars (\$4,500.00).

Respondent shall pay to the Claimant the five hundred (\$500.00) non-refundable filing fee previously paid by Claimant.

Fees should be made payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name

Public/Industry

          /s/            
Sam Giunta

Public

          /s/            
Leslie Bishop

Industry

          /s/            
John R. Phillips, Esq.  
Arbitrator John Phillips dissents as to  
paragraph 3 of the "Award" and  
otherwise concurs in all other decisions.

Public

Date of Decision: September 24, 1996