

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

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**In the Matter of the Arbitration Between**

**Name of Claimant**

**Georgia Johnson**

**vs.**

**93-04709**

**Names of Respondents**

**First of Michigan Corporation;  
Thaddeus M. Mirochna**

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**REPRESENTATION**

**For Claimant: Georgia Johnson ("Johnson") of Detroit, Michigan was represented at the hearing by Donald B. Greespon, Esq., of Greespon, Scheff & Washington, P.C., Detroit, Michigan.**

**For Respondents: First of Michigan Corporation ("First of Michigan") was not represented at the hearing. Thaddeus M. Mirochna ("Mirochna") was not represented at the hearing.**

**CASE INFORMATION**

**Statement of Claim filed with the NASD on: November 10, 1993.**

**Uniform Submission Agreement of Claimant Johnson signed on: November 8, 1993.**

**Answer of Respondent First of Michigan filed on or around: March 18, 1994.**

**Uniform Submission Agreement of First of Michigan signed on: May 6, 1994.**

**HEARING INFORMATION**

**Prehearing Conference: None Held.**

**Hearing Date/Sessions: February 16, 1995, for One (1) Session.**

**Hearing Location: Detroit, Michigan.**

### **CASE SUMMARY**

In the Statement of Claim, Johnson alleged that First of Michigan and Mirochna made misrepresentations concerning her investments and failed to supervise her account. Johnson alleged that in April, 1991, she signed a "loan agreement" and submitted an endorsed check to Mirochna for investment on her behalf. Johnson claims Mirochna and First of Michigan failed to honor their verbal promise to invest the money, charged excessive commissions and fees, and breached the agreement they signed.

In its Statement of Answer, First of Michigan denied all wrongdoing and brought a cross-claim against Mirochna. First of Michigan asserted that the fees charged as a result of Claimant's purchases (of 4,453 shares of the MFS Government Income Plus Trust mutual fund in March 1989 and 1043 shares of the Bond Fund of America, Inc. mutual fund in April, 1991) were not excessive since the securities recommended were suitable investments. First of Michigan also claimed that the "loan" Johnson made to Mirochna was a personal loan made outside the scope of his employment with First of Michigan, and therefore First of Michigan is not vicariously liable on the transaction.

In its Cross-Claim, First of Michigan claimed that Mirochna is liable to First of Michigan for indemnification and contribution since the allegations of wrongdoing occurred outside the scope of his employment with First of Michigan.

Mirochna did not file a Statement of Answer.

### **RELIEF REQUESTED**

Claimant Johnson requested compensatory damages in the amount of \$50,000.

Respondent First of Michigan requested that the panel hold Respondent Mirochna liable to First of Michigan for contribution and indemnification if an amount is awarded to Johnson pursuant to her claim.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Johnson and First of Michigan signed an agreement on February 10, 1995, dismissing all claims against First of Michigan. The settlement was signed by the panel present at the hearing.

At the hearing, Claimant amended her claim, reducing the amount in dispute to \$20,000.00 plus interest, costs and fees. The panel then decided to reduce the number of arbitrators on the panel to one, based on the amended amount in dispute.

### **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. Respondent Mirochna is liable for and shall pay to Claimant Johnson compensatory damages in the amount of \$20,000.00 and interest in the amount of \$2,860.00.
2. Respondent Mirochna is liable for and shall reimburse Claimant Johnson for all filing costs (\$120.00) and all hearing session fees deposited by Claimant Johnson (\$400.00).
3. Respondent Mirochna is liable for and shall pay to Claimant Johnson interest at the rate of 7% per annum on the amount awarded by the arbitrator from the date of the award until the award is paid by Respondent Mirochna.
4. Any relief not specifically provided for herein is denied.

### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

The NASD shall retain the claim filing fee of \$120.00 and the hearing session deposit in the amount of \$400.00 which was previously deposited with the NASD by Claimant Johnson. The NASD shall also retain the claim filing fee of \$500.00 and refund the hearing session deposit of \$600.00 filed by Respondent First of Michigan pursuant to the cross-claim.

(1) hearing sessions X \$400.00 = \$400.00 minus hearing session deposit by Claimant of \$400.00 = \$0 net due.

**By the Arbitrator:**

Richard H. Potter  
Richard H. Potter  
Chairperson  
Public Arbitrator

Date of decision: April 20, 1995