

## **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**

**Jean M. Parker**

**vs.**

**94-00785**

**Names of Respondents**

**John Hancock Distributors and  
Joseph C. Dault**

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## **REPRESENTATION**

**For Claimant: Jean M. Parker ("Parker") of Pentwater, Michigan, appeared at the hearing pro se.**

**For Respondents: John Hancock Distributors, Inc. ("John Hancock") was represented at the hearing by Meigs M. Day, Esq., of Morrison, Mahoney & Miller, Grand Rapids, Michigan. Joseph C. Dault ("Dault") was represented at the hearing by Jennifer L. Wieloch, of John Hancock Mutual Life Insurance Co., Boston, Massachusetts.**

## **CASE INFORMATION**

**Statement of Claim filed with the NASD on: March 1, 1994.**

**Uniform Submission Agreement of Claimant Parker signed on: February 25, 1994.**

**Answer of Respondent John Hancock filed on or around: April 29, 1994.**

**Uniform Submission Agreement of John Hancock signed on: April 29, 1994.**

**Answer of Respondent Dault filed on: September 14, 1994.**

**Uniform Submission Agreement of Dault signed on: September 9, 1994.**

## **HEARING INFORMATION**

**Prehearing Conference:** None Held.

**Hearing Date/Sessions:** January 25, 1995, for Two (2) Sessions.

**Hearing Location:** Detroit, Michigan.

## **CASE SUMMARY**

In the Statement of Claim, Parker alleged that John Hancock and Dault sold her unsuitable investments, made misrepresentations concerning the investments, and failed to supervise her account. Parker alleged that in October, 1984, John Hancock recommended and sold to Parker two limited partnership funds: the Damson Oil and Gas Income Fund and the Equitec Real Estate Investors Fund XIV. Parker claims she bought \$7,500 worth of each investment, and that Dault represented to her that the Damson investment was insured against loss and that Parker could not lose the original investment.

In its Statement of Answer, Respondent John Hancock denied that Parker's investments were unsuitable or fraudulent, or that it failed to supervise its representatives. In addition, John Hancock asserted the following affirmative defenses: that Parker has failed to state an actionable claim; that the claim is barred by the Statute of Limitations, laches, waiver and estoppel; and that any damages suffered by Parker are due to her own action or inaction.

In his Statement of Answer, Respondent Dault denied that the investments were unsuitable. Dault also denied that he represented the Damson Oil and Gas Fund as a "no risk" investment, or that Parker could not lose the original investment because of insurance.

## **RELIEF REQUESTED**

Claimant Parker requested compensatory damages, including interest, in the amount of \$34,477. Parker also requested punitive damages in the amount of \$50,000.

Respondents John Hancock and Dault requested the claim be dismissed.

## **OTHER ISSUES CONSIDERED AND DECIDED**

On November 10, 1994, Respondent Dault filed Motions to Dismiss pursuant to Section 15 of the Code of Arbitration Procedure and the applicable Michigan statute of limitations. On January 5, 1995, Respondent John Hancock filed similar Motions to Dismiss. After considering the motions, the Panel decided to defer ruling on the motions until it had been presented with

additional evidence at the hearing.

The parties 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.

### **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. Respondents John Hancock and Dault are jointly and severally liable and shall pay to Claimant Parker the sum of \$14,000;
2. The claim for punitive damages is hereby dismissed and denied in its entirety;
3. Each of the parties shall bear their own costs and expenses incurred, including attorneys fees, other than those specifically enumerated for herein;
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 \$150.00 and the hearing session deposit in the amount of \$500.00 which was previously deposited with the NASD by the Claimant.

The Panel has ordered that Claimant and Respondents shall each be liable to the NASD for half of the Forum Fees.

(2) hearing sessions X \$500.00 = \$1,000.00 minus hearing session deposit by Claimant of \$500.00 = \$500.00 net due. The Panel has ordered that the Respondent pay additional Forum Fees to the NASD in the amount of \$500.00.

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

**By the Arbitration Panel:**

**Dated:**

/s/ Harry G. Hutchinson, IV  
Harry G. Hutchison, IV  
Chairperson  
Public Arbitrator

2/10/1995

/s/ David M. Black  
David M. Black, Esq.  
Public Arbitrator

2/9/1995

/s/ William C. Kubicz  
William C. Kubicz  
Industry Arbitrator

2/21/1995