

12/6/97 9/11/2005

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Joan M. Raymer.

Claimant.

v.

No. 96-04612

First of Michigan Corporation. and
Todd Wynn.

Respondents.

REPRESENTATION OF PARTIES

Claimant Joan M. Raymer ("Claimant") was represented by Anthony P. Gauthier, Esq. and M. Bridget Gleason, Esq. of Weathers & Richardson, P.C. located in Grand Rapids, Michigan.

Respondents First of Michigan Corporation ("FOM") and Todd Wynn ("Wynn") (collectively referred to as "Respondents") were represented by Thomas R. Cox, Esq. of Miller, Canfield, Paddock and Stone located in Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about October 14, 1996.

Claimant's Submission Agreement was signed on October 14, 1996.

Respondents' Joint Statement of Answer was filed on or about February 14, 1997.

Respondent FOM's Submission Agreement was signed on December 31, 1996 by Conrad W. Koski, President and CEO of FOM.

Respondent Wynn's Submission Agreement was signed on December 30, 1996.

HEARING INFORMATION

The hearing was held on December 8, 1997 for two (2) sessions.

The hearing was held in Southfield, Michigan.

CASE SUMMARY

Claimant alleged that she had minimal experience with and limited knowledge of market investments. Claimant contended that she told Respondent Wynn, a registered representative of Respondent FOM, that she could not afford to lose what little money she had or make risky or aggressive investments. Claimant asserted that Respondent Wynn made unsuitable recommendations and unauthorized trades in various investments, including: T2 Medical Incorporated stock; Nuveen Michigan Municipal Bond Fund; and Altera stock. Claimant maintained that Respondent Wynn engaged in risky short sales of Altera stock on margin without Respondent's consent or knowledge. Claimant asserted various claims against Respondents, including: lack of suitability / breach of fiduciary duty; violation of NASD Rules of Fairing Practice; violation of Article 22-A of the New York General Business Law; Negligence; and Respondent Superior.

Respondents denied all liability to Claimant in the Statement of Answer. Respondents alleged that Claimant approved all transaction in her account, including the short sales of Altera. Respondents further alleged that all transactions were suitable in light of Claimant's investment objectives and financial circumstances. Respondents also contended that Claimant ratified the Altera short sales and failed to mitigate her damages by failing to purchase shares of Altera to cover her shares.

RELIEF REQUESTED

In the Statement of Claim, Claimant sought the recovery of damages in the amount of \$13,099.40, exclusive of attorneys fees and costs, as well as treble damages in the amount of \$1,000.00.

Respondents requested that the Statement of Claim be dismissed in its entirety with prejudice.

OTHER ISSUES CONSIDERED & DECIDED

There were no other issues considered and decided.

AWARD

After considering the pleadings, the testimony, and the evidence presented, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- (1) The arbitrator finds that the margin account and margin trading in Altera stock was unsuitable for Claimant;

- (2) That Respondent First of Michigan Corporation is liable for and shall pay to Claimant Joan M. Raymer the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00), constituting an award of compensatory damages, costs, and attorney fees;

- (3) That Respondent First of Michigan Corporation is liable for and shall pay to Claimant Joan M. Raymer interest on the above sum at the Michigan Statutory Rate from January 15, 1995 until December 15, 1997;

- (4) That an award of attorney fees is allowed under Michigan law;

- (5) That all claims against Respondent Todd Wynn are hereby dismissed in their entirety with prejudice; and

- (6) That any relief not specifically enumerated is hereby denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$300 per hearing session and \$300 for each pre-hearing conference, if any. There were two (2) hearing sessions x \$300 = \$600 in forum fees. Pursuant to §10332(b) of the Code, a hearing session is any meeting between the parties and the

9/11/05

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 96-04612
Award Page 4 of 4

arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee associated with the filing of this claim in the amount of \$100 and shall refund the hearing session deposit in the amount of \$300 previously deposited by the Claimant. Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall also retain the postponement fee in the amount of \$300 previously deposited by the Claimant.

Pursuant to §10332(c) of the Code, Respondent First of Michigan Corporation is liable for and shall pay forum fees in the amount of \$600.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Arbitrator's Signature

/s/ Stephen K. Woods, Esq.

Stephen K. Woods, Esq.

Public Arbitrator

December 16, 1997

Dated:

For NASD Regulation use only:

Date award served on the parties: December 16, 1997