

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Leroy C. Lucas,

Claimant,

v.

No. 96-05243

First of Michigan Corporation,

Respondent.

REPRESENTATION OF PARTIES

Claimant Leroy C. Lucas ("Claimant") was represented by Bruce M. Bieneman, Esq. of Cholette, Perkins & Buchanan located in Grand Rapids, Michigan.

Respondent First of Michigan Corporation ("Respondent") was represented by A. Michael Palizzi, Esq. of Miller Canfield Paddock and Stone located in Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about November 13, 1996.

Claimant's Submission Agreement was signed on December 18, 1996

The Statement of Answer was filed on or about April 8, 1997.

Respondent's Submission Agreement was signed on April 7, 1997.

HEARING INFORMATION

The pre-hearing conference was held on March 26, 1998 for one (1) session. The hearing was held on August 4, 1998 for one (1) session in Southfield, Michigan.

CASE SUMMARY

Claimant alleged that he sold 75 shares of Colorocs stock rather than 3 shares based on the advice of Respondent's agents which was negligently given. Claimant also contended that

Respondent was guilty of conversion. Respondent denied that its agent advised Claimant to sell the 75 shares of Colorocs. Respondent contended that, even if such advice was given, it would have been negligent for an experienced investor such as Claimant to have relied on such advice.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award in the amount of \$18,908, plus interest and attorney fees.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed in its entirety with prejudice, plus an award of its costs.

OTHER ISSUES CONSIDERED & DECIDED

None.

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) That the Statement of Claim is hereby dismissed in its entirety with prejudice;
- (2) That other than forum fees which are specified below, the parties shall each bear their own costs, attorney fees and expenses incurred in this matter; and
- (3) That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are 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 (2) hearing sessions (including the pre-hearing conference) x \$300 = \$600 in forum fees. Pursuant to §10332(b) of the Code, a hearing session is any meeting between the parties and the 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 in the amount of \$100 and shall retain as forum fees the

hearing session deposit in the amount of \$300 (1/2 forum fees) previously deposited by the Claimant.

Pursuant to §10332(c) of the Code, Respondent is liable for and shall pay forum fees in the amount of \$300 (1/2 forum fees). Pursuant to §10319 of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain Respondent's postponement deposit in the amount of \$300 (1st postponement). Pursuant to §10319 of the Code, Respondent is liable for and shall pay postponement fees in the amount of \$600 (2nd postponement).

Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Regulation, Inc. the \$200 member surcharge previously invoiced.

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

Arbitrator's Signature:


Terrence J. Dorcy
Public Arbitrator

August 17, 1998
Dated:

For NASD Regulation use only:
Date award served on parties:

August 19, 1998