

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:
First of Michigan Corporation vs. Erik Hume

Case Number: 99-58

Hearing Site: Detroit, Michigan

REPRESENTATION OF PARTIES

Claimant, First of Michigan Corporation ("FOMC"), hereinafter referred to as "Claimant": A. Michael Palizzi, Esq. and Michael Coakley, Esq., Miller, Canfield, Paddock & Stone, PLC.

Respondent, Erik Hume ("Hume"), hereinafter referred to as "Respondent": David Jarvis, Esq., Farmington Hills, Michigan.

CASE INFORMATION

Statement of Claim filed on or about: December 30, 1998

Claimant, FOMC, signed the Uniform Submission Agreement: December 29, 1998, by Lenore P. Denys

Statement of Answer filed by Respondent, Hume, on or about: March 15, 1999

Claimant filed a Motion to Bar Presentation of Testimony or Evidence on or about: October 16, 2000

CASE SUMMARY

Claimant asserted that Respondent failed to repay principle due and owing to Claimant under the terms of a Promissory Note signed by Respondent.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim must fail due to lack, want or failure of consideration; the Statement of Claim must fail because Claimant breached its express and implied Covenants with Respondent; the Statement of Claim must fail because Claimant failed to provide services and support to Respondent in compliance with industry standard; and the Statement of Claim must fail as Claimant has been unjustly enriched at the expense of Respondent.

RELIEF REQUESTED

Claimant requested actual damages of \$28,800.00, plus interest from August 14, 1998, through the date of the arbitration award, attorneys fees, costs, and other unspecified relief.

Respondent requested that the Panel enter an award in his favor and declare the Promissory Note null and void. Alternatively Respondent requested that the Panel determine the amount of economic harm suffered by him and offset the same against any moneys allegedly due and owing Claimant under the Promissory Note, plus Attorney's Fees and other relief the Panel deems just, equitable, necessary and proper.

OTHER ISSUES CONSIDERED AND DECIDED

After oral arguments at hearing, the Arbitrator denied Claimant's Motion to Bar.

Respondent Erik Hume did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

AWARD

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

- 1.) Respondent, Erik Hume, is solely liable for and shall pay to Claimant, First of Michigan Corp., the sum of \$19,200.00 in damages within thirty (30) days of NASD Date of Service;
- 2.) Respondent, Erik Hume, is solely liable for and shall pay to Claimant, First of Michigan Corp., the sum of \$9,600.00 in damages no later than August 14, 2001;
- 3.) Respondent, Erik Hume, is solely liable for and shall pay to Claimant First of Michigan Corp. interest at the rate of 5% per annum pursuant to statute on the sum of \$19,200.00 from and inclusive of NASD Date of Service to and inclusive of the date this award is paid in full;
- 4.) Respondent, Erik Hume, is solely liable for and shall pay to Claimant First of Michigan Corp. interest at the rate of 5% per annum pursuant to statute on the sum of \$9,600.00 from and inclusive of August 14, 2001, to and inclusive of the date this award is paid in full;
- 5.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 6.) That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$ 600.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$1,000.00

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NASD REGULATION

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Adjournment Fees

Adjournments requested during these proceedings:

December 14-15, 1999, adjournment by Erik Hume = \$ 300.00 (waived)
 June 29-30, 2000, adjournment by Erik Hume = \$ 600.00 (waived)

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$300.00 = \$ 300.00
 Pre-hearing conference: July 15, 1999 1 session

Three (3) Hearing sessions x \$300.00 = \$ 900.00
 Hearing Date: October 19, 2000 2 sessions
 October 20, 2000 1 session

Total Forum Fees = \$1,200.00

The Arbitrator has assessed \$600.00 of the forum fees to First of Michigan Corporation.
 The Arbitrator has assessed \$600.00 of the forum fees to Erik Hume.

Fee Summary

Claimant, First of Michigan Corporation, be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$ 2,200.00
<u>Forum Fees</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 3,300.00
<u>Less payments</u>	= \$ 2,400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

Respondent, Erik Hume, be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrator's Signature


Dennis J. Levasseur
 Industry Arbitrator, Presiding Chair

11/1/2000
 Signature Date

Date of Service (For NASD office use only)