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Michigan First Wins Appeal in CUMIS Fidelity Bond Case

BY MICHELLE SAMAAD

Michigan First Credit Union is entitled to $5 million in damages and another $2.7 million in interest from CUMIS Insurance Society Inc. in a case involving a wrongful denial of a fidelity bond claim, a federal court has ruled.

The May 24 ruling filed with the U.S. District Court for the Eastern District of Michigan at Detroit affirms a jury's decision in a 2009 trial.

The case originated in July 2003 when the $577 million Michigan First began offering indirect auto loans. A third-party administrator approved low-risk loans while higher risk applications were forward to the credit union for further review.

Two Michigan First employees were responsible for review of the applications and the credit union's vice president was required to submit monthly reports to the board to ensure policy compliance.

According to the ruling, the vice president failed to monitor the indirect lending program. A sampling of direct and indirect loans was reviewed in an October 2003 internal audit. One indirect loan was found to be in violation of the Michigan First's lending policy and was removed from the report on the vice president's request.

A January 2004 internal audit revealed that hundreds of approved indirect loans were in violation of the Michigan First's policy, which resulted in defaulted loans. The credit union filed its fidelity bond claim with CUMIS.

The insurance provider had previously issued a fidelity bond that provided coverage for losses caused by an employee's "failure to faithfully perform his/her trust." Michigan First contended that it suffered financial harm as a result of three of its employees' "conscious disregard of its lending."

CUMIS denied the claim and Michigan First sued. Following a seven-day trial, a jury determined that the credit union's losses were indeed covered by the fidelity bond, rendering a verdict in the amount of $5.05 million.

CUMIS moved for a judgment matter of law and a new trial. The district court denied these motions. CUMIS also moved to amend the judgment to impose a specific interest amount.

In response, the district court imposed a $2,730,415 interest award, holding that Michigan First was entitled to penalty interest, but that such interest must be offset by prejudgment interest. CUMIS appealed the judgment and the credit union cross-appealed the district court's interest calculation.

The jury ultimately determined that there was sufficient evidence to support that Michigan First's lending policy was "established, enforced, and "conscious[ly] disregard[ed]."

"Moreover, the record evidence is sufficient to support the jury's finding that MFCU did not acquiesce to the policy violations at issue," the ruling read. "Such findings are not unreasonable or against the clear weight of the evidence."

CUMIS' motion for a new trial was denied based on the sufficiency of evidence, the court ruled.

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