

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

John A. Luciano
John D. Miosi
Peter Yubas, Jr.
Carmin V. Pardi

89-01880
consolidated with
~~89-01400~~

Name of Respondent(s)

First Investors Corporation
Jay T. Stainsby

REPRESENTATION

For Claimants: Charles C. Swanekamp, Esq. of Saperston & Day in Buffalo, New York and Richard Clack, Esq. of Casey, Sanchez, Jones, Amigone & Kelleher in Buffalo, New York.

For Respondents: Earl Cantwell, Esq. of Jaekle, Fleischmann & Muehl in Buffalo, New York.

CASE INFORMATION

Statement of Claim filed: May 12, 1989.

Submission Agreement of John A. Luciano signed on: May 1, 1989.

Submission Agreement of John D. Miosi signed on: April 28, 1989.

Submission Agreement of Peter Yubas, Jr. signed on: April 28, 1989.

Submission Agreement of Carmin V. Pardi signed on: December 11, 1991.

Joint Statement of Answer filed by Respondents on: September 8, 1989.

Submission Agreement of First Investors Corporation signed on: July 31, 1989.

Submission Agreement of Jay T. Stainsby signed on: August 1, 1989.

HEARING INFORMATION

Hearing Dates/Sessions: December 11, 12, and 13, 1991
January 28 and 29, 1992
February 27 and 28, 1992/
14 sessions

Hearing Location: Buffalo, New York

CASE SUMMARY

Claimants alleged that Respondents maliciously manufactured defamatory words and slanderous falsehoods to their clientele while employed by the Respondent First Investors Corporation. Claimants further alleged that the defamatory and slanderous falsehoods were made with willful intent to injure them in their business reputations and professions. Respondents maintained that the Claimants were disgruntled ex-representatives of First Investors Corporation who voluntarily resigned their association with the firm. Respondents further maintained that the Claimants left the firm owing monies on advances against future earnings on commissions, breached their Registered Representative Agreements by engaging in the solicitation of employees of First Investors Corporation and the solicitation of customer accounts after they left the firm and began working for competitors.

RELIEF REQUESTED

Each Claimant requested actual damages of \$250,000.00, punitive damages of \$250,000.00 along with costs and disbursements of the action. Respondents requested dismissal of all claims and asserted a first counterclaim against Carmine Pardi for \$1,623.00, against John A. Luciano for \$18,633.95, against John D. Miosi for \$348.02, against Peter Yuhaz, Jr. for \$347.58 plus interest from each Claimant from July 22, 1987, all Respondents' expenses and attorneys' fees and asserted a second counterclaims against each Claimant for no less than \$100,000.00 plus costs, expenses, and attorneys' fees.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

(1) Respondents First Investors Corporation and Jay T. Stainsby are liable and shall pay to Claimant John A. Luciano the sum of Twelve Thousand Dollars and No Cents (\$12,000.00); Respondents First Investors Corporation and Jay T. Stainsby are liable and shall pay to Claimant John D. Miosi the sum of Twenty Two Thousand Dollars

and No Cents (\$22,000.00); Respondents First Investors Corporation and Jay T. Stainsby are liable and shall pay to Claimant Peter Yuhas, Jr. the sum of Fifteen Thousand Dollars and No Cents (\$15,000.00); Respondents First Investors Corporation and Jay T. Stainsby are liable and shall pay to Claimant Carmine V. Pardi the sum of Twenty Five Thousand Dollars and No Cents (\$25,000.00).

(2) The counterclaims of the Respondents against each Claimant be and hereby are dismissed.

OTHER COSTS

(1) The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 44c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

(1) Claimants are jointly assessed \$1,500.00 in forum fees.

(2) Respondent First Investors Corporation is assessed \$10,000.00 in forum fees.

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

Concurring Arbitrators' Signatures

Diane J. McMahon, Esq. (chairperson)

Industry Arbitrator

Fred C. Cohn

Industry Arbitrator

Kirsten M. Jahn, Esq.

Industry Arbitrator

Dated: May 29, 1992

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Kirsten M. Jahn, Esq.

Industry Arbitrator

Dated: 5/20/92

Date of Decision: May 29, 1992