

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Robert S. Frost & Sandra J. Frost  
Sandra J. Frost, Custodian-Ronald D. Frost

91-00010

Name of Respondent

Peter Hesbacher

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REPRESENTATION

For Claimants: Robert S. Frost, pro se.  
For Respondent: Daniel T. Steiner, Esq. of Kirkpatrick & Lockhart.

CASE INFORMATION

Statement of Claim filed: January 2, 1991.  
Claimants' Submission Agreement signed: January 23, 1991.

Statement of Answer filed by Respondent: May 15, 1991.  
Respondent's Submission Agreement signed: May 09, 1991.

HEARING INFORMATION

Hearing Date/Sessions: November 05, 1991/ 2 sessions.  
Hearing Location: Offices of the National Association of Securities Dealers,  
Inc. ("NASD") in Philadelphia, PA.

CASE SUMMARY

Claimants, Robert S. and Sandra J. Frost- individually and as Custodian of Ronald D. Frost- (collectively, "Claimants"), alleged that the Respondent, Peter Hesbacher ("Hesbacher"), fraudulently induced them to invest in the First Investors Fund for Income (the "Fund") by misrepresenting material information concerning the quality and financial stability of the Fund. The Claimants further alleged that the Fund was unsuitable for them in light of their investment objectives and that the risks inherent in this investment were never disclosed to them.

Hesbacher denied the allegations made against him and contended that at the time the Claimants invested in the Fund, the Fund was suitable and a solid, long-term investment. Hesbacher also contended that the inherent risks were disclosed to the Claimants and he did not make any misrepresentations or omissions in connection with the Claimants' investment in the Fund.

RELIEF REQUESTED

Claimants requested actual damages of \$27,000.00, plus damages for pain and suffering, costs, attorney's fees, and that Hesbacher's license be suspended.

Hesbacher requested dismissal of all claims made against him.

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. All claims against Respondent Peter Hesbacher be and hereby are dismissed in all respects.
2. The parties each shall bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$400.00 previously deposited by the Claimants, and the Respondent, Peter Hesbacher, be and hereby is liable and shall pay to the NASD the sum of \$300.00, as Forum Fees for the two (2) hearing session conducted in this matter.

Arbitrator's Signature

  
D. Joan Sampieri, Sole Public Arbitrator

Date of Decision: November 18, 1991  
Dated by the NASD: November 26, 1991