

N.A.S.D. AWARD

In the Matter of the Arbitration Between

Name of Claimants

Roy & Ramona Denham, Elva Wood,
Jules and Adele Weinberger, et al.

91-00248

Name of Respondents

First Investors Corporation, et al.

REPRESENTATION

For Claimants: William B. Federman, Esq. of Day Hewett & Federman, Oklahoma City, Oklahoma.

For Respondents: Glenn R. Reichardt, Esq. of Kirkpatrick & Lockhart, Washington, D.C.

CASE INFORMATION

Statement of Claim filed: on or about January 23, 1991.

Claimant's Submission Agreement signed on: January 17, 1991 by Roy & Ramona Denham, Elva Wood, Jules Wienberger, Adele Wienberger. On December 31, 1990 by Claude G. Jones, as Representative of the Estate of Tilda Zaruah Jones, Claude G. Jones, Dorothy Jones, Maybelle Bradley. On December 16, 1990 by Don Chase, Alta Chase, and Eleanor Chase Guffey. On January 16, 1991 by John and Velda Ruzyski. On January 10, 1991 by Marie J. McInerney. On December 14, 1990 by Beauford Hammum and Celia Hammum. On December 16, 1990 by James E. Chase.

Consolidated Statement of Answer filed by Respondents First Investors Corporation, First Investors High Yield Fund, Inc., First Investors Fund for Income, Inc., First Investors Management Company, Inc., First Investors Consolidated Corporation, First Investors Securities Corporation, Administrative Data Management Corporation, Glenn O. Head, David D. Grayson, Sam Siegel, Louis Rinaldi, John Bocskocsky, Lawrence Fauci, Katherine Head, Frederick Miller, Concetta Durso, Joseph Benedek, Anne Condon, Andrew J. Donohue, Benalder Bayse, Alan P. Radano, Brian Laux, Joward A. Froman, and Alvin Blumenfeld on or about: June 13, 1991.

Respondent First Investors Corporation's Submission Agreement signed on: May 16, 1991 by David D. Grayson on behalf of First

Investors Corporation. Respondent First Investors Management Company, Inc.'s Submission Agreement signed on: November 21, 1991 by David D. Grayson on behalf of First Investors Management Company, Inc.

HEARING INFORMATION

Hearing Dates/Sessions: November 20, 1991/ two hearing sessions
November 21, 1991/ three hearing sessions
November 22, 1991/ two hearing sessions

Hearing Location: Oklahoma City, Oklahoma.

CASE SUMMARY

Claimants alleged that they were unsophisticated investors who invested in the First Investors High Yield Fund, Inc. and the First Investors Fund For Income, Inc. based on representations that the investments were appropriate and assured that their money was completely safe. Claimants alleged that they later found that the investments were not suitable for their particular investment objectives. Claimants alleged that in connection with the said investment, they were poorly informed and purposely misled about the nature of the investments. Claimants further alleged that Respondents participated in a scheme to purposely mislead their agents to fraudulently induce their clients to believe they were getting safe high-yield dividend yielding investments when in fact they were investing in "junk" bond funds.

Respondents, in their consolidated answer, motioned to sever the claims, motioned to decline jurisdiction, and motioned to strike Claimant's submission. Respondents deny violating any legal duty to Claimants. Respondents alleged that the Claimants received prospectuses which disclosed the high risks and expenses associated with investing in the fund. Respondents also deny the Claimants as being unsophisticated.

RELIEF REQUESTED

Claimants requested: Compensatory damages, together with the growth and income their money should have earned to make them whole, pre-judgment interest on the compensatory damages, necessary attorney's fees, expert witness fees, and costs, punitive damages and civil penalty and such other relief as the panel finds appropriate under the circumstances.

Respondents requested: The separate claims of the various eighteen Claimants should be severed and restated as individual claims, all Respondents other than First Investors Corporation should be dismissed from the proceeding, alternatively, the claimant's Statement of Claim should be stricken, and even if the claimants cure the defects in their Statement of Claim, the panel should reject each Claimant's claim and should award him or her

no damages.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The following Respondents were removed by the NASD as parties since they are not member firms and since they did not voluntarily submit to arbitration: First Investors Consolidated Corporation, First Investors High Yield Fund, Inc., First Investors Fund For Income, and Administrative Data Management Corporation.

The Respondents filed a Motion To Sever the Claims, a Motion To Decline Jurisdiction, and a Motion To Strike Claimant's submissions with the Director of Arbitration. The Director denied the motions but stated that they may be raised again for final determination by the arbitrators. The motions were once again raised before the panel of arbitrators. The arbitrators decided as follows: the Motion to Sever the Claims is denied, the Motion To Decline Jurisdiction has been granted as to all the individual respondents only without prejudice to the Claimant filing of a separate action against them; the Respondent's Motion To Decline Jurisdiction has been denied as to the corporations, the Motion To Strike Claimant's Submission is moot as to the individuals and denied as to the corporations.

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. The Respondents First Investors Corporation and First Investors Management Company shall be and hereby are jointly and severally liable to the following Claimants for the following amount of compensatory damages:

- a. to Elva Wood in the amount of \$31,427.00;
- b. Roy and Ramona Denham in the amount of \$7270.00;
- c. Claude and Dorothy Jones in the amount of \$15,363.00;
- d. Tilda Jones in the amount of \$24,403.00;
- e. Jules and Adele Weinberger in the amount of \$21,355.00;
- f. Maybelle Bradley in the amount of \$1085.00;

- g. Beauford and Celia Hamm in the amount of \$7141.00;
- h. James E. Chase in the amount of \$2039.00;
- i. Eleanor Chase Guffey in the amount of \$2039.00;
- j. Don and Alta Chase in the amount of \$3175.00;
- k. John and Velda Ruzyski in the amount of \$19,600.00;
- l. Marie McInerney in the amount of \$12,615.00.

2. Respondents First Investors Corporation and First Investors Management Company, jointly and severally, shall pay to the Claimants, as a group, attorney's fees in the amount of \$5400.00. This amount is to be apportioned to them in accordance with their pro-rata share of the total damages as stated in paragraph number one (1) above;

3. Respondents First Investors Corporation and First Investors Management Company, jointly and severally, shall pay to the Claimants for costs incurred in connection with their expert witness in the amount of \$1600.00. This amount is to be apportioned to them in accordance with their pro-rata share of the total damages as stated in paragraph number one (1) above;

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

7 sessions X \$750.00= \$5250.00 minus hearing session deposit of \$750 = net \$4500.00 due. Forum fees Assessed Against: Respondents First Investors Corporation and First Investors Management Company, Inc., jointly and severally. First Investors Corporation and First Investors Management Company shall reimburse to the Claimants the sum of \$750.00 which was previously deposited with the NASD. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name

Public/Industry

Charles L. Dollarhide, II, Esq.

Public

James E. Golden, Jr., Esq.

Public

Michael J. Kitchen

Industry

Date of Decision: _____

- g. Sanford and Celia Hansen in the amount of \$7141.00;
- h. James E. Chase in the amount of \$2039.00;
- i. Eleanor Chase Gaffey in the amount of \$2039.00;
- j. Don and Alta Chase in the amount of \$3175.00;
- k. John and Valda Mayocki in the amount of \$19,600.00;
- l. Marie McInternoy in the amount of \$12,615.00.

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Concerning Arbitrators' Signatures
Name

Public/Industry

Charles L. Dollarhide, II, Esq.

Public

James E. Golden, Jr., Esq.

Public

Michael J. Kichen

Industry

Date of Decision: 12-12-91

- g. Beauford and Celis Benson in the amount of \$7141.00;
- h. James E. Chase in the amount of \$2039.00;
- i. Eleanor Chase Guffey in the amount of \$2039.00;
- j. Don and Alta Chase in the amount of \$3175.00;
- k. John and Valda Ruychik in the amount of \$19,600.00;
- l. Maria Mulmurry in the amount of \$12,815.00.

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Concurring Arbitrators' Signatures
Name

Public/Industry

Charles L. Dallahida, II, Esq.

Public

James E. Golden, Jr., Esq.

Public

Michael J. Kitchen

Industry

Date of Decision: 1/2/91

- g. Beauford and Calla Hamm in the amount of \$7141.00;
- h. James E. Chase in the amount of \$2039.00;
- i. Eleanor Chase Guffey in the amount of \$2039.00;
- j. Don and Alta Chase in the amount of \$3175.00;
- k. John and Valda Ruzynki in the amount of \$19,600.00;
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Concurring Arbitrators' Signatures
Name

Public/Industry

Charles L. Dollarhide, II, Esq.

Public

James E. Golden, Jr., Esq.

Public

Michael J. Kitchen

Industry

Date of Decision: 1. 3. 92