

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Mary V. Roberts
Marion Bleakley
Margaret Petrie
Mercedes Parrino
Catherine English

91-00255

Name of Respondent(s)

John T. McCue
First Investors Corporation

REPRESENTATION

For Claimants: Samuel F. Abernethy, Esq. of Menaker & Hermann in New York City.

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

CASE INFORMATION

Statement of Claim filed: January 24, 1991.

Submission Agreement of Mary V. Roberts signed on: December 19, 1990.

Submission Agreement of Marion Bleakley signed on: December 19, 1990.

Submission Agreement of Catherine English signed on: January 8, 1991.

Submission Agreement of Mercedes Parrino signed on: December 14, 1990.

Submission Agreement of Margaret Petrie signed on December 14, 1990.

Joint Statement of Answer of Respondents filed on: June 5, 1991.

Submission Agreement of First Investors Corporation signed on: June 4, 1991.

Submission Agreement of John T. McCue signed on: June 4, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: March 16, 1992/two sessions
March 17, 1992/two sessions
March 18, 1992/two sessions
March 27, 1992/two sessions
May 6, 1992/two sessions

Hearing Location: New York City

CASE SUMMARY

Claimants alleged that Respondents persuaded them to invest their retirement benefits (pensions and savings plan distributions) in unsuitable investments which were high yield bond funds of First Investors Corporation (First Investors Fund for Income, Inc.). Claimants further alleged that Respondents failed to disclose that their monies would be invested in "junk bonds," failed to provide the Claimants with account agreements, risk disclosure statements, prospectuses or similar documents at any time before or after opening the accounts and failed to diversify their holdings. Respondents maintained that the Claimants received regular monthly payments of income from their investments, that Claimants did receive prospectuses explaining the risks associated with the funds in which they invested, and that any losses were due to market conditions and not the sales practices or other actions of the Respondents. Respondents further maintained that Claimants' primary investment objective was high income, and the funds in which they were invested did provide a high rate of return over the long term.

RELIEF REQUESTED

Claimant Mary V. Roberts requested actual damages of \$40,000.00, punitive damages of \$35,000.00, attorneys' fees and expenses. Claimant Marion Bleakley requested actual damages of \$34,000.00, punitive damages of \$30,000.00, attorneys' fees and expenses. Claimant Margaret Petrie requested actual damages of \$32,000.00, punitive damages of \$30,000.00, attorneys' fees and expenses. Claimant Mercedes Parrino requested actual damages of \$89,000.00, punitive damages of \$80,000.00, attorneys' fees and expenses. Claimant Catherine English requested actual damages of \$33,000.00, punitive damages of \$30,000.00, attorneys' fees and expenses. Respondents requested that the claims of the Claimants be dismissed.

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.

AWARD

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

(1) Respondents First Investors Corporation and John T. McCue are jointly and severally liable and shall pay to Claimants as follows:

to Claimant Mary V. Roberts the sum of Thirty Seven Thousand Four Hundred Sixty One Dollars and No Cents (\$37,461.00);

to Claimant Marion Bleakley the sum of Thirty Two Thousand Seven Hundred Ninety Dollars and No Cents (\$32,790.00);

to Claimant Margaret Petrie the sum of Twenty Nine Thousand One Hundred Thirty Dollars and No Cents (\$29,130.00);

to Claimant Mercedes Parrino the sum of Eighty Three Thousand Three Hundred Ninety Three Dollars and No Cents (\$83,393.00);

to Claimant Catherine English the sum of Thirty Thousand Nine Hundred Twenty One Dollars and No Cents (\$30,921.00).

Additionally, Respondents must pay post-judgment interest of 9% to each Claimant to begin 60 (sixty) days after the date of judgment if awards are not paid by then.

(2) The Claimants' claim for punitive damages is denied.

OTHER COSTS

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

FORUM FEES

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

(1) Respondents First Investors Corporation and John T. McCue are jointly assessed \$5,000.00 in forum fees based upon the ten hearing sessions conducted in this matter. (10 sessions X \$500.00 hearing session deposit)

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

Concurring Arbitrators' Signatures

Stan West
Stan West, Esq. (chairperson)

Public Arbitrator

Leo Cooperman

Public Arbitrator

Barbara J. Glenns, Esq.

Industry Arbitrator

Dated: July 27, 1992

Concurring Arbitrators' Signatures

Stan West, Esq. (chairperson)

Public Arbitrator

Leo Cooperman

Public Arbitrator

Barbara J. Glenns, Esq.

Industry Arbitrator

Executed on:

Dated: 7/21/92

Date of Decision: July 27, 1992


Concurring Arbitrators' Signatures

Stan West, Esq. (chairperson)

Public Arbitrator

Leo Cooperman

Public Arbitrator


Barbara J. Gleams, Esq.

Industry Arbitrator

Dated: July 27, 1992