

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant:

Mary Poshadlo

91-00777

Name of Respondents:

First Investors Corporation  
Morris I. Lester

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REPRESENTATION

For Claimant: Michael Kalis, Esq. of Poplar & Kalis, P.C.

For Respondent: Glenn Reichardt of Kirkpatrick & Lockhart.

CASE INFORMATION

Claimant filed a Statement of Claim on March 7, 1991 and executed a submission agreement on March 7, 1991.

Respondents filed a joint Statement of Answer on May 9, 1991.  
Respondent First Investors Corp. signed a submission agreement on May 15, 1991. Respondent Morris I. Lester signed a submission agreement on April 9, 1991.

HEARING INFORMATION

Hearing Date/Sessions: July 30, 1991— two sessions.

Hearing Location: Southfield, Michigan.

CASE SUMMARY

Claimant alleged that Respondent Morris I. Lester ("Lester"), who was employed by Respondent First Investors Corporation, solicited her and her deceased husband to purchase shares in the Invoice Financing Trust of Utah. She further alleged that Respondent Lester indicated that this would be a profitable investment, but that in fact the investment was speculative and

unsuitable for them. She also alleged that Respondent First Investors Corp. failed to properly supervise Respondent Lester.

Respondents alleged that Respondent Lester never represented or guaranteed a minimum rate of return. Respondents also alleged that during the six years from when Claimant and her deceased husband purchased this investment to the date of Claimant's filing of a claim in this matter, they never contacted either Respondent to complain about it. Respondents also alleged that Respondent Lester sold this product in his capacity as an independent financial consultant and not as a representative of First Investors Corp.

#### RELIEF REQUESTED

Claimant requested an award of \$58,000.00, interest from April 1, 1985 to the present, her costs and attorney's fees.

Respondents requested dismissal of the claim.

#### AWARD

After considering the pleadings, the testimony, 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 are jointly and severally liable to the Claimant and shall pay \$10,000.00 excluding interest.
2. Respondent Lester is liable and shall pay to the Claimant \$5,000.00 excluding interest.
3. Each party shall pay its own costs including attorneys' fees.

#### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, Forum Fees of \$500.00 are assessed. This amount was computed as follows:

\$500.00/session x 2 sessions - \$500.00 hearing sessions deposit  
paid by Claimant = \$500.00

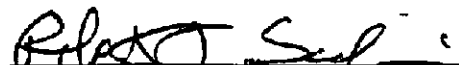
The parties are to bear this amount as follows:


Respondents are jointly and severally liable for \$500.00 in forum fees.


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The NASD will retain Claimant's \$150.00 non refundable claim filing fee.

Concurring Arbitrators' Signatures:

  
Robert J. Scafuri, Esq.  
Public Arbitrator/Chairman

  
Levi T. Gardner, III  
Public Arbitrator

  
Mark Kowalsky, Esq.  
Industry Arbitrator

DATED: October 8, 1991