

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimants

George Madden,
Kenneth and Ruth Walters
and George Valentine

Case #91-01847

~~#91-01848~~

#91-01849

Name of Respondents

First Investors Corporation,
Angelo Coscia
and Daniel White

REPRESENTATION

For Claimants George Madden, Kenneth and Ruth Walters and George Valentine (collectively referred to as "Claimants"): John Lawrence Allen, Attorney at Law and David Robbins, Esq. of the law firm Kaufmann, Gildin & Carlin.

For Respondents First Investors Corporation, Angelo Coscia and Daniel White (collectively referred to as "Respondents"): Glenn R. Reichert, Esq. of Kirkpatrick & Lockhart.

CASE INFORMATION

Statement of Claims filed by the Claimants: June 13, 1991.

Claimant George Madden's ("Madden") Submission Agreement signed on: June 6, 1991.

Claimant Kenneth and Ruth Walters' ("Walters") Submission Agreement signed on: June 6, 1991.

Claimant George Valentine's ("Valentine") Submission Agreement signed on: May 28, 1991.

Joint Statement of Answers filed by Respondents on: August 19, 1991.
Respondent Daniel White was named as a Respondent only in case number 91-01849.

Respondent First Investors Corporation's ("First Investors") Submission Agreement signed on: July 11, 1991.

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Award Numbers 91-01847, 91-01848 and 91-01849

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Respondent Angelo Corsia's ("Corsia") Submission Agreement signed on: July 18, 1991.

Respondent Daniel White's ("White") Submission Agreement signed on: July 22, 1991.

HEARING INFORMATION

Pre-Hearing Conference: February 17, 1992 - one session

Hearing Dates/Sessions: March 3, 1992 - two sessions
March 4, 1992 - two sessions
March 5, 1992 - two sessions
March 6, 1992 - two sessions
March 9, 1992 - two sessions

Hearing Location: NASD Office - New York City

CASE SUMMARY

In these three cases which were consolidated for hearing purposes, Claimants held brokerage accounts with Respondent First Investors. The claims against First Investors arise as a result of misconduct by Corscia and in Claimant Valentine's case misconduct of both Corscia and White.

Claimants alleged that Corscia placed them in an unsuitable investment fund named the First Investors High Income Fund ("FIFI"). Claimants alleged that they were unsophisticated investors whose sole source of income was improperly invested by Corscia in this fund and that this fund did not meet their investment needs or objectives. Claimants alleged that they placed their trust and confidence in Corscia and that Corscia took advantage of their trust to their detriment. Claimants alleged that Respondents made false statements and made material misstatement of facts to induce the Claimants to invest in FIFI. Claimants alleged that Respondents omitted disclosing material facts. Claimants alleged that Corscia unduly concentrated their monies in one Fund. Claimants alleged that First Investors failed to properly supervise Corscia. In addition, Claimant Valentine alleged that White failed to professionally and responsibly advise him. Claimant Valentine alleged that Respondent White recommended to Valentine after his liquidation of FIFI that he place his monies into another unsuitable investment - Franklin AGE Income Fund. Claimant Valentine also alleged that First Investors failed to properly supervise its employees Corscia and White.

Respondents categorically denied all wrongdoing and specifically maintained that the Claimants accounts were properly handled, and that the investments were suitable given their stated investment objectives. Respondents maintained that based on the historical performance of FIFI from 1975 to

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1989, Coscia had a reasonable basis for recommending that Claimants invest in FIFI. Respondents maintained that Coscia never recommended that the Claimants place all their monies in FIFI. First Investors maintained that Respondent Coscia and White were properly supervised. Respondents denied any and all allegations of fraud, material misrepresentation or omitting to disclose material facts to the Claimants. Respondents maintained that Coscia "knew his customers", disclosed all aspects of FIFI to the Claimants before they invested and that he furnished the Claimants with the FIFI Prospectus before they invested in the fund. Respondents maintained that the Claimants received their monthly account statements and that during the time that Claimants held the fund in their account, they received high monthly dividends and generally achieved their investment objective. Respondents maintained that any losses that Claimants incurred were due to the general decline in the market for high yield bonds.

RELIEF REQUESTED

Claimant Madden requested: compensatory damages in the amount of \$113,512, plus interest from the date of purchase, costs, expenses, attorneys and expert fees, punitive damages and recovery for intentional infliction of emotional distress.

Claimants Walters requested: compensatory damages in the amount of \$256,356, plus interest, costs, attorneys and expert fees, punitive damages and recovery for intentional infliction of emotional distress.

Claimant Valentine requested: compensatory damages in the amount of \$98,728, plus interest, costs, attorneys and expert fees, punitive damages and recovery for intentional infliction of emotional distress.

Respondents requested: that the claims of the Claimants' be dismissed in their entirety, that Claimants' requests for emotional distress be dismissed and that Respondents be awarded costs.

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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determina-

tion as follows:

1. That Respondents First Investors and Coscia are jointly and severally liable to the Claimant George Madden and shall pay to George Madden the sum of THIRTY SIX THOUSAND EIGHT HUNDRED THIRTY TWO AND 00/100 DOLLARS (\$36,832.00).
2. That Respondents First Investors and Coscia are jointly and severally liable to the Claimant George Valentine and shall pay to George Valentine the sum of SIXTY ONE THOUSAND ONE HUNDRED FORTY-NINE AND 00/100 \$61,149.00.
3. That Respondents First Investors and Coscia are jointly and severally liable to the Claimant Kenneth Walters and shall pay to Kenneth Walters the sum of ONE HUNDRED THOUSAND SEVEN HUNDRED TWENTY THREE AND 00/100 DOLLARS (\$100,723).
4. That Respondents First Investors and Coscia are jointly and severally liable to the Claimant Ruth Walters and shall pay to Ruth Walters the sum of FIFTY FOUR THOUSAND FOUR HUNDRED EIGHTY FOUR AND 00/100 DOLLARS (\$54,484.00).
5. That all other claims asserted by the parties are denied in their entirety.
6. That all claims asserted against Respondent White are denied.
7. That all parties shall bear their respective costs including attorneys' fees.

All of the above amounts are inclusive of interest until the date of the award; however, the Panel has decided that the Respondents have thirty days from receipt of its award to pay the above amounts. Thereafter interest shall accrue at the rate of nine percent simple interest per annum until the date the award is paid.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has decided that the costs of forum fees shall be equally borne by the Claimants and Respondents First Investors and Coscia so that the following forum fees are assessed:

Hearing sessions fees in this matter costs were \$1000 per session and 10 hearing sessions were held. The fee for the prehearing conference was \$300. Claimants are therefore assessed forum fees in the amount of \$5150, however, Claimants are entitled to offset this amount with their hearing session deposits which totaled \$1750 so that the amount due from the Claimants as forum fees is \$3400.00. The amount due from Respondents First Investors and Coscia jointly and severally is \$5,150.00.

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

Concurring Arbitrator's Signature
Name

Joseph E. DaGrosa
Joseph E. DaGrosa

Public/Industry

INDUSTRY ✓

Date of Decision: April 6th, 1992

Concurring Arbitrator's Signature
Name

Dorothy F. Gray
Dorothy F. Gray, Esq.

Public/Industry

Date of Decision: April 6th, 1992

Concurring Arbitrator's Signature
Name

Allen Kilik
Allen Kilik, Esq.

Public/Industry

Public

Date of Decision: April 6th, 1992