

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Albert de Atienza and
Angeles de Atienza

and

91-02256

Name of Respondent

INVEST Financial Corporation

REPRESENTATION OF PARTIES

Claimant Albert de Atienza appeared pro se.

Respondent was represented by Eugene B. Harper, Esq. of INVEST Financial Corporation, Tampa, Florida.

CASE INFORMATION

The Statement of Claim was filed on or about July 2, 1991.

Claimant's Submission Agreement signed on July 16, 1991 by Albert de Atienza and Angeles de Atienza.

Statement of Answer filed by Respondent, INVEST Financial Corporation dated August 13, 1991. Amended Statement of Answer dated January 29, 1992.

Respondent INVEST Financial Corporation's Submission Agreement signed on August 13, 1991 by Eugene B. Harper, Esq.

HEARING INFORMATION

The hearing was held on Monday, March 9, 1992 in Scottsdale, Arizona for a total of two (2) sessions.

CASE SUMMARY

Claimants alleged that Christopher D. Brown, an employee of Respondent INVEST Financial Corporation made material misrepresentations regarding their investment in Putnam High Income Government Trust. Claimants specifically alleged that Mr. Brown stated that the principal investment in the fund was absolutely safe because the funds were guaranteed by the U.S. Government.

Respondent stated that the Claimants were fully advised of the

risks of their investment and had received the printed information regarding the risks and nature of the investment. Respondents further stated that Claimants are estopped from recovery by their approval, authorization or ratification, and that any losses incurred were not proximately caused by any acts of it.

RELIEF REQUESTED

Claimants requested an award in the amount of \$25,750.00 plus costs.

Respondent requested that the claims asserted be denied, the case be dismissed and that it be awarded its costs, expenses and reasonable attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent INVEST Financial Corporation filed a motion to change the situs of the hearing on or about December 19, 1991. Upon consideration of the respective submissions by the parties, the panel denied the motion to change the situs of this hearing.

The panel has determined that the stenographic record shall be the official record of this proceeding pursuant to Section 37 of the NASD Code of Arbitration Procedure.

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 original(s) 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. Respondent INVEST Financial Corporation shall be and hereby is liable for and shall pay to the Claimants the sum of \$6,000.00.
2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$100.00 and shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the

Claimants as forum fees. Respondent shall pay to the NASD the sum of \$400.00 as forum fees.

Forum fees are calculated at the rate of \$400.00 per hearing session. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

March 9, 1992

March 9, 1992

March 9, 1992

Thomas F. Tobin

Thomas F. Tobin, Esq.
Presiding Chair Public Arbitrator

Donald E. Cline

Donald E. Cline
Public Arbitrator

Robert Torcivia

Robert Torcivia
Industry Arbitrator