

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Paul J. D'Orazio :
Claimant : CASE #92-00298
vs. : AWARD
Warren Five Cents Savings Bank :
Invest Financial Corp. :
Wall Street Investor Corp. :
Respondents :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 28, 1992, Claimant Paul D'Orazio who appeared Pro Se, alleged that Respondent Invest Financial Corp. refused to liquidate his investment, Kemper Government Securities Trust GNMA Series #21, once they realized the custodian for his account, Respondent Warren Five Cents Savings Bank, did not hold the fund certificate. The Claimant further alleged that Respondent Invest Financial Corp. informed him that the certificate was sent to respondent Wall Street Investor Corp. and the Claimant contends that it was not his responsibility to hold the certificate, therefore, the Respondents are liable for the loss of the certificate.

Respondents, Warren Five Cents Savings Bank and Invest Financial Corp. filed a joint answer through their counsel Eugene G. Harper, Tampa, Fl. in which they maintained that statements were sent to the Claimant which indicated he held all certificate units and no units were "on deposit". The respondents further maintained that they are not liable because any damages suffered were caused by persons other than Invest Financial Corp. and Warren Five Cents Savings Bank.

Respondent, Wall Street Investors Services through its representative, Arthur Goethcius, maintained that it seems the lost certificate was sent to Mr. D'Orazio's address instead of the custodian Bank, and that the customer should have seen this delivery and noted it on his statement. The respondent Wall Street Investors Corp. further maintained that since they did not get the envelope back as "undeliverable" they assumed it was properly delivered, and that it acted in good faith.

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Claimant Paul D'Orazio, in a reply to the answers states that he did not receive correspondence that would have alerted him to the fact that the certificate had been placed in the mail

In response to this reply, respondents, Invest Financial Corp. and Warren Five Cents Savings Bank maintained their position that it was clearly marked on his statement that he was in possession of all certificates.

RELIEF REQUESTED

Claimant, Paul J. D'Orazio requested either \$3,321.61 in actual damages, or the ability to liquidate the certificate without incurring the expense of the Surety Bond.

Respondents, Invest Financial Corp. and Warren Five Cents Savings Bank requested the claims of the Claimant be dismissed.

Respondent, Wall Street Investors Services requested the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William M. Prifti, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 27, 1991 and by the Respondent Invest Financial Corp. on February 20, 1992 by Warren Five Cents Savings Bank on February 12, 1992 and by Wall Street Investment Corp. on February 25, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

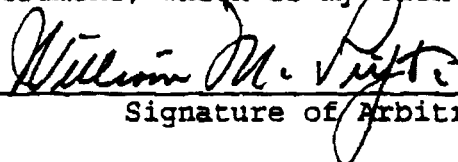
1. Respondent Wall Street Investors Corp. is liable and shall pay \$1,661.00 in actual damages to Claimant Paul J. D'Orazio.
2. Respondent Invest Financial Corp. is liable and shall pay \$1,661.00 in actual damages to Claimant Paul J. D'Orazio.

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3. The claims against Warren Five Cents Savings Bank are dismissed in their entirety.
4. The parties shall bear their respective costs.
5. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD. Respondent Invest Financial Corp., and Wall Street Investors Corp. shall pay \$125.00 to the Claimant as reimbursement of the fee.

AFFIRMATION

I, WILLIAM M. PRIETI, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION:

May 21, 1992

DATED BY THE NASD, INC.: June 30, 1992