

NOV 29 1993

## N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERSName of Claimant

John C. Burrow

No. 93-01110

Name of Respondents

Torchmark Corporation  
United Investors Management Corporation  
Torchmark Development Corporation  
United Investors Real Estate, Inc.  
Waddell & Reed, Inc.

REPRESENTATION OF PARTIES

For Claimant: Dennis E. Egan, Esq., of The Popham Law Firm, P.C.,  
Kansas City, Missouri.

For Respondents: W. Perry Brandt, Esq., of Stinson, Mag & Fizzell,  
P.C., Kansas City, Missouri.

CASE INFORMATION

Statement of Claim filed on or about: March 22, 1993.

Claimant's Submission Agreement signed: March 6, 1993.

Joint Statement of Answer filed by the Respondents on or about:  
June 4, 1993.

Respondent Torchmark Corporation's Submission Agreement signed on:  
May 7, 1993.

Respondent United Investors Management Corporation's Submission  
Agreement signed on: May 7, 1993.

Respondent Torchmark Development Corporation's Submission Agreement  
signed on: May 7, 1993.

Respondent United Investment Real Estate, Inc.'s Submission  
Agreement signed on: May 7, 1993.

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Respondent Waddell & Reed, Inc.'s Submission Agreement signed on:  
May 7, 1993.

**HEARING INFORMATION**

Pre-hearing conference date: October 15, 1993. One (1) session.

Hearing dates: November 9, 1993. Two (2) sessions.  
November 10, 1993. Two (2) sessions.  
November 11, 1993. Two (2) sessions.

Hearing Location: Kansas City, Missouri.

**CASE SUMMARY**

Claimant, John C. Burrow ("Claimant") alleged that Respondents, Torchmark Corporation, United Investors Management Co., Torchmark Development Corporation, United Investors Real Estate, Inc., and Waddell & Reed, Inc. ("Respondents"): Breached express and implied employment contract terms; violated ERISA provisions by terminating Claimant shortly before his vesting in 401(k) savings and investment plans and stock option plans with the intent and effect of avoiding paying Claimant upon his becoming fully vested in the plans; caused Claimant to exercise stock options under the terms of the stock option plan within ninety (90) days of his termination, as opposed to over a three-year period, causing substantial losses to the Claimant; violated the Age Discrimination Employment Act ("ADEA") when Claimant's positions as president of Respondent Torchmark Development Corporation and United Investors Real Estate, Inc. were reassigned to a younger person who was paid less than the Claimant and received fewer benefits than Claimant had received from Respondents; fraudulently induced Claimant to become employed with them; and intentionally or negligently misrepresented facts and statements to Claimant concerning his employment with Respondents.

Unless specifically admitted in their joint Answer, Respondents denied the allegations contained in the Statement of claim. In addition, Respondents asserted the following affirmative defenses:

1. Claimant's alleged breach or contract claim is barred by the statute of frauds.
2. Claimant's alleged age discrimination claim is barred by reason of the fact that his release from employment occurred as a result of a legitimate nondiscriminatory reasons were not mere pretexts.
3. Claimant's alleged ERISA claim is barred by reason of the fact that his release from employment occurred as a

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result of legitimate nondiscriminatory reasons and not with the specific intent to interfere with any rights under an employee pension plan.

4. Claimant has failed to mitigate reasonably his alleged damages.

#### RELIEF REQUESTED

Claimant requested judgement against the Respondents for actual damages in excess of \$3,000,000.00, plus prejudgment interest on all amounts found due and owing, and for punitive damages in the amount of \$3,000,000.00, for Claimant's costs and such other further relief as the arbitrators shall deem just and proper.

Respondents each requested an award in their favor.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by 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. Respondents, Torchmark Corporation, United Investors Management Corporation, Torchmark Development Corporation, United Investors Real Estate, Inc., and Waddell & Reed, Inc. are jointly and severally liable for, and shall pay to the Claimant, John C. Burrow the sum of \$380,835.00 as satisfaction of all of Claimant's claims herein.

2. Claimant, John C. Burrow's claim for punitive damages is hereby denied and dismissed with prejudice.

#### OTHER COSTS

Each party shall bear its own costs and expenses associated with this arbitration, except as set forth below.

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FORUM FEES

Pursuant to Section 44(c) of the NASD Code of Arbitration Procedure (the "Code"), the following forum fees are assessed:

1 pre-hearing conference session x \$300.00 = \$300.00

5 hearing sessions x \$1,500.00 = \$9,000.00

Pursuant to Section 44(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$500.00, and shall retain the hearing session deposit in the amount of \$1,500.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$7,800.00 are assessed jointly and severally against Respondents Torchmark Corporation, United Investors Management Corporation, Torchmark Development Corporation, United Investors Real Estate, Inc., and Waddell & Reed, Inc.

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

CONCURRING ARBITRATORS

Dated:

11/23/93

Name:



Elrod P. Wilson  
Presiding Chair  
Industry Arbitrator

\_\_\_\_\_  
Richard E. Oswalt  
Industry Arbitrator

\_\_\_\_\_  
John J. Sopinski  
Industry Arbitrator

Date of Service by the NASD: \_\_\_\_\_

NASD ARBITRATION NO. 93-01110  
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Name: \_\_\_\_\_

Elrod P. Wilson  
Presiding Chair  
Industry Arbitrator

Richard E. Oswalt  
Industry Arbitrator

  
John J. Szpinski  
Industry Arbitrator

11/24/93  
Date of Service by the NASD: \_\_\_\_\_