

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Barbara A. Ford-Natoli

96-02732

Name of Respondent

*Invest Financial Corporation

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 26, 1996, Claimant Barbara A. Ford-Natoli ("Claimant"), who appeared Pro Se, alleged that she received an Internal Revenue Service ("IRS") audit which reflected a tax liability of \$1,324.00. Claimant further alleged that the audit reflected that a 1099-R had been issued in 1993 for her Individual Retirement Account ("IRA") maintained with Respondent Invest Financial Corp. ("Respondent"). Claimant also alleged that Respondent closed her IRA and moved the funds to an open account without notifying her. Claimant contended that Respondent was aware of her current address, but had mailed the information about her account to an old address. Claimant further contended that Respondent erred and should be held liable for the tax liability and penalties, and should move the funds back to the original status.

Respondent Invest Financial Corporation, through its representative and in-house counsel, Eugene B. Harper, Esq., maintained that State Street Bank and Trust Company ("State Street"), custodian of Claimant's self directed account was solely responsible for Claimant's account. Respondent further maintained that Claimant's account for her IRA was with State Street from February, 1985 to March, 1993. Respondent also maintained that State Street notified all IRA participants that (1) it was resigning as custodian of their IRA's (2) First Trust Corporation ("First Trust") was designated as successor and was allowing participants to agree, appoint a different trustee or custodian or (3) terminate the IRA. Respondent contended that in December, 1991, State Street advised Claimant that unless maintenance fees were paid, or transfer instructions given on or before January 18, 1992, the proceeds of her IRA would be distributed and the account closed. Respondent further contended that State Street sent a final notice to Claimant on or about January 28, 1993. Respondent also contended that it was Claimant's responsibility to notify State Street of her current address. Respondent asserted that Claimant was on notice from January, 1994 when she received a 1099-R from the Affinity Group and tax statements from Kemper Clearing Corp. which indicated the distribution of her IRA. Respondent further asserted that it should not be liable and requested that the claims be dismissed. Respondent maintained that the funds could not be returned to an IRA account because of IRS rule.

RELIEF REQUESTED

Claimant Barbara A. Ford-Natoli requested \$1,690.00 for the tax liabilities and penalties, and return of the funds to the original status.

Respondent Invest Financial Corporation requested that the claims of the Claimant be dismissed, plus costs and fees.

AWARD

Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Frank Lewis, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Barbara A. Ford-Natoli on June 20, 1996, and by the Respondent Invest Financial Corporation on August 15, 1996.

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. The claims of Claimant Barbara A. Ford-Natoli, against the Respondent Invest Financial Corporation, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Barbara A. Ford-Natoli, shall be retained by the NASD, Inc.

AFFIRMATION

I, FRANK LEWIS, 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.



FRANK LEWIS, ESQ.

DATE OF DECISION: January 14, 1997