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JAN 29 1991

In the Matter of the Arbitration between :
:
:
Claimants, :
:
V. :
:
RICHARD BURGIO; CLARA MACRI; SYLVESTER MAYO; :
EUGENE B. HARPER and INVEST FINANCIAL CORP., :
Respondents. :
:

AWARD

MS 91-30

The Undersigned, pursuant to section 31 of MSRB rule G-35, hereby states as follows:

CASE SUMMARY

Claimants allege, among other things, that they have not received principal and interest owed them on a \$10,000 Metropolitan Transit Authority, N.Y., Commuter Facility 1987 Service Contract Bond, dated 11/15/88, 8%, due 7/1/2008 ("the Bond"), which they purchased from Respondent INVEST Financial Corporation ("INVEST") on or about December 13, 1988.

Respondents argue, among other things, that on April 28, 1989, transfer instructions were sent to the transfer agent to register the Bond in the name of Claimants, that the Bond was received and mailed to the registered owners at their address of record on May 9, 1989, and was not returned to the clearing agent as "undeliverable" or "refused" by the U.S. Postal Service, and that no request to replace the certificate as being either lost or stolen has been received by the clearing agent from the registered owners. Respondents also argue that prior to October, 1989, Claimants advised INVEST that the Bond was never received by them, that, in response thereto, INVEST mailed Affidavits of Non-Receipt to Claimants on October 17, 1989 and November 6, 1989, and that, although Claimants acknowledge receipt of said documents in their Statement of Claim, they have failed to sign and return same to INVEST for processing. In addition, Respondents argue that the first interest payment on the Bond was payable on July 1, 1989, and was mailed to the registered owners at their address of record on that date, that all semi-annual payments have been mailed to Claimants by the transfer agent since that date, that the Bond continues to be registered in the names of Claimants, and that the last payment was made on July 1, 1991 in the amount of \$400 and was cashed by the joint tenants on July 24, 1991.

RELIEF REQUESTED

Claimants request an award of approximately \$12,500.

Respondents request that the claims of the Claimants be dismissed in their entirety and that Respondents be awarded their costs, including attorneys' fees.

AWARD

On December 4, 1991, in Smithtown, New York, the undersigned arbitrator heard the controversy between the parties set forth in submissions to the arbitrator signed by Claimant on April 16, 1991; by Claimant on April 25, 1991 (filed with the MSRB on May 1, 1991); by Respondent Richard Burgio on June 14, 1991; by Respondent Sylvester Mayo on June 17, 1991; and by Respondents Clara Macri, Eugene B. Harper and INVEST on June 24, 1991. The undersigned, having considered the pleadings, the testimony and the evidence presented at the hearing, has determined, in full and final resolution of the issues submitted for determination, as follows:

1. The claims of the Claimants shall be dismissed in their entirety.
2. Respondents' request for an award of costs and attorneys' fees is denied.

Public Arbitrator

Dated: *New York, New York*
January 24, 1992

STATE OF *N.Y.*
COUNTY OF *N.Y.*

ss.:

On this *24th* day of *January*, 19*92*, before me personally appeared _____ to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Mark D. Sendroff

RELIEF REQUESTED

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AWARD

On December 4, 1991, in Smithtown, New York, the undersigned arbitrator heard the controversy between the parties set forth in submissions to the arbitrator signed by Claimant on April 16, 1991; by Claimant on April 25, 1991 (filed with the MSRB on May 1, 1991); by Respondent Richard Burgio on June 14, 1991; by Respondent Sylvester Mayo on June 17, 1991; and by Respondents Clara Macri, Eugene B. Harper and INVEST on June 24, 1991. The undersigned, having considered the pleadings, the testimony and the evidence presented at the hearing, has determined, in full and final resolution of the issues submitted for determination, as follows:

1. The claims of the Claimants shall be dismissed in their entirety.
2. Respondents' request for an award of costs and attorneys' fees is denied.


Jeffrey S. Eisenberg

Dated: New York, New York
January 24, 1992

STATE OF N.Y.
COUNTY OF N.Y.

ss.:

On this 24th day of January, 1992, before me personally appeared Jeffrey S. Eisenberg to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

