

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Mary Lou Willdigg

Claimant

and

James L. Fainter

Consolidated Investment Services, Inc.

Respondents

A W A R D

88-02315

CASE SUMMARY

Mary Lou Willdigg ("Claimant") invested approximately \$70,000, generated from the sale of her residence, with Consolidated Investment Services, Inc. and James L. Fainter (collectively referred to herein as "Respondents"). Allegedly Claimant had no prior investment experience and sought to invest these funds in conservative investments. The principal was not to be placed at risk and Claimant sought to generate a reasonable amount of income. Respondents suggested the purchase of \$50,000 worth of the G.I.N. Series II Trust.

Claimant alleged that the Respondents represented that the partnership was in good standing, and that the Respondents had performed due diligence on the investment, and the Respondents failed to disclose material facts relative to the investment and failed to comply with various requirements under the 1933 Securities Act and Fraud.

Respondents replied that due diligence was performed on this investment. Respondents believed that the investment was solid and appropriate for Claimant's needs. The loss was due to the failure of the original trustees actions and inactions and not the sales practices of the Respondents.

RELIEF REQUESTED

Claimant requests \$41,561.42 in actual damages, plus interest and attorney's fees. Respondents requested that the Claimant's claims be dismissed.

AWARD

On July 20, 1988, the Claimant filed her Statement of Claim with the National Association of Securities Dealers, Inc. ("NASD"). On July 31, 1989 and September 7, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on July 15, 1988 by Claimant Mary Lou Willdigg, on September 12, 1988 by Norman P. Rounds on behalf of Respondent Consolidated Investment Services, Inc. and on September 12, 1988 by Respondent, James L. Fainter.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Respondents, Consolidated Investment Services, Inc. and James Fainter shall be jointly and severally liable to the Claimant Mary Lou Willdigg for the following amounts:

- a) Actual damages - \$41,561.42
- b) Prejudgment Interest - \$9,373.70
- c) Costs, including Attorneys' fees - \$10,509.05

Total Amount - \$61,444.17

2. Claimant shall transfer and assign her certificates of participation in the G.I.N. Series II to the Respondents.

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the NASD shall refund as forum fees the \$500.00 filing fee previously deposited with the NASD by the Claimant and the Respondents shall pay to the NASD through its staff counsel \$2,000.00 as forum fees.

By the Panel

Dated: 10-16-89 /S/ William M. Pendleton
Presiding Chairman

Dated: 09-11-89 /S/ Harry Roger McConnell

Dated: 10-19-89 /S/ Gary M. Biesiadecki

Date Served: 10-27-89