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**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the matter of the Arbitration Between

ESTHERANNE M. BILLINGS,

Claimant,

v.

NASD No. 92-04039

F.T. BANK & ASSOCIATES, F.T. BANK, an individual, WILLIAM J. BLACKWELL, Partner, F.T. Bank, WILLIAM J. BLACKWELL, an Individual, ROBERT K. MALKIN, Partner F.T. Bank, ROBERT K. MALKIN, an Individual, MUNICICORP OF CALIFORNIA, VANGUARD CAPITAL, KENBEE MANAGEMENT, INC., KENBEE LIMITED PARTNERS, INC, KENBEE NANKIN ASSOCIATES LIMITED PARTNERS, DEL-VAL FINANCIAL CORPORATION BROADCAST CAPITAL and S. A. SODIA, as Notary Public and as an Individual,

Respondents.

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***Representation***

For Claimant: Leonard Steiner, Esq. of Steiner and Libo, Beverly Hills, California

For Respondent F.T. Bank and F.T. Bank & Associates: William Blackwell, Esq., Los Angeles, California

For Respondent Municicorp of California: George Rendon, Esq. of Municicorp, Los Angeles, California

For Respondent Vanguard Capital and Broadcast Capital: Jeffrey Kob, Esq. of Miller & Milove, San Diego, California

For Respondent Kenbee Management, Kenbee Limited Partners and Kenbee Nankin Associates: Pro se, New York, New York

For Respondent Del-Val Financial Corporation: Pro se, Bogota, New Jersey

For Respondent William Blackwell: Pro se, Los Angeles, California

For Respondent Robert Malkin: Pro se, Los Angeles, California; Arbitration stayed as to him

due to bankruptcy filing.

For Respondent S. A. Sodja: Jeffrey Kob, Esq. of Miller & Milove, San Diego, California

***Case Information***

Statement of Claim filed: November 23, 1992

First Amended Claim filed: November 25, 1992

Second Amended Claim filed: May 16, 1994

Claimant's Submission Agreement signed: November 25, 1992

Statements of Answer of F. T. Bank and F. T. Bank & Associates filed on: August 16, 1993

Statement of Answer of and Amended Answer of William Blackwell filed on: July 30, 1993 and June 6, 1994

Statement of Answer and Amended Answer of Municicorp of California filed on: July 29, 1993 and July 30, 1994

Statement of Answer and Amended Answer of Vanguard Capital filed on: September 16, 1993 and June 10, 1994

Statement of Answer of Broadcort Capital filed on: August 1, 1994 (to Second Amended Claim)

Respondent F. T. Bank & Associates' Submission Agreement signed on: September 15, 1993

Respondent F. T. Bank's Submission Agreement signed on: January 24, 1995

Respondent William Blackwell's Submission Agreement signed on: July 26, 1993

Respondent Municicorp of California's Submission Agreement signed on: July 29, 1993

Respondent Vanguard Capital's Submission Agreement signed on: August 6, 1993

Respondent Broadcort Capital's Submission Agreement signed on: None filed but submitted to jurisdiction at the hearing and subject to NASD jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure.

Respondent S. A. Sodja - None filed. Not a member or associated person of NASD and arbitrators did not assert jurisdiction and dismissed as party by Claimant prior to arbitration hearing.

Respondents Kenbee Management, Inc.'s and Del-Val Financial's Submission Agreement signed on: Not members or associated persons of the NASD, and arbitrators did not assert jurisdiction.

Respondent Kenbee Nankin Associates' and Kenbee Limited Partners, Inc.'s Submission Agreements signed on: None filed but subject to NASD jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure.

Respondent Robert Malkin did not submit a submission agreement and the case was stayed as to him due to bankruptcy filing.

### ***Hearing Information***

Prehearing Conference Date(s)/Sessions: May 5, 1994/one, October 31, 1994/one, January 16, 1995/one

Hearing Date/Sessions: January 23/two, 24/two, 25/two, 1995, May 1/two, 2/two, 3/two, 4/two, 5/two, 1995

Hearing Location: Los Angeles, California

### ***Case Summary***

Claimant alleged fraud, unauthorized trading and lack of suitability in the purchase of limited partnerships. At the filing of the claim, Claimant Estheranne Billings (Billings) was a 67 year old woman, divorced since 1976. She was employed as a teacher until 1978 when she went on disability leave due to severe emotional mental disorders from which she still suffers. Since 1980, Billings has been continuously under the care of psychiatrists and psychologists.

Claimant alleged that the funds for the investments came from a \$350,000 emotional distress related workers compensation award and \$100,000 she received in 1985 from the sale of personal and real property. Billings investment goal was to earn sufficient income so she could live comfortably and that the investments be highly liquid in light of her anticipated medical needs. She had no prior investment experience. Respondents Robert Malkin, (Malkin) William Blackwell (Blackwell) and F. T. Bank (Bank) formed a brokerage firm named F. T. Bank and Associates (FTB). Malkin was formerly employed by Vanguard Capital (Vanguard) and purchased the limited partnerships for Billings without her consent. Sales of the limited partnerships were accomplished through transfer agents, including Broadcort Capital Corporation (BCC).

Respondents Blackwell, FTB and Bank denied all allegations of wrongdoing and alleged that Billings had been a client of Malkin for a number of years prior to the formation of FTB. Bank, Blackwell and FTB maintained that they were exempted from personal liability because they incorporated themselves as F. T. Bank & Associates, Inc. shortly before Billings acquired the limited partnership interests that allegedly resulted in her damages. Bank and Blackwell never had any direct business dealings with her. Billings invested in Kenbee Limited Partnerships, for which the general partners are liable for any wrongdoing. Her bonds were not fraudulently sold and no forgery occurred in the purchase of Nankin Associates. Billings is

receiving income from CAI Partners. Put options were available in the Nankin Associates, L. P. (Nankin) limited partnership if an investor wanted to get out of a partnership. The partnership owned and leased real estate to such viable companies as Pace Membership Warehouse and Walgreens. The partnership stopped making monthly distributions as a result of the unforeseen misuse of funds by the Nankin General Partners.

Respondent Municicorp of California denied all substantive allegations of wrongdoing.

Respondent Vanguard denied all allegations of wrongdoing and alleged that Billings knowingly entered into the sale of bonds in order to purchase limited partnership interests in Nankin, managed by Kenbee Management, Inc. and a subsidiary of Del-Val Financial, Inc. Claimant was attracted by the greater return potential with Nankin and insisted on a second purchase of the limited partnership. Prior to purchasing her interest in Nankin, Billings knowingly executed various subscription documents necessary for the investment and represented herself to have adequate assets to qualify for each of her purchases. Since 1976, Nankin's general partners and their affiliates had formed and managed over 161 prior real estate syndications. The offerings were sold to over 2,500 individuals and raised over \$200 million.

Respondent Broadcast Capital Corporation denied all allegations of wrongdoing and alleged that it had been dismissed by Billings' first counsel on August 10, 1993. Claimant was allowed to file a Second Amended Claim on May 5, 1994 to add an "unsuitability" claim against current parties, not to add new parties.

Respondents Kenbee Limited Partners and Kenbee Nankin Associates did not file Answers or appear at the hearing.

### ***Relief Requested***

Claimant requested:

1. Compensatory damages of \$500,000;
2. Interest on her investments from February 1990 on;
3. Punitive damages of at least \$100,000;
4. Treble damages pursuant to California Civil Code Section 3345;
5. Cost and attorney's fees.

### ***Other Issues Considered and Decided***

The parties have agreed that the Award in this matter may be executed in 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 originals remain on file with the NASD.

Respondent Municicorp of California's Motion to Dismiss was granted by the arbitrators prior to the hearing.

Respondent S. A. Sodra was dismissed as party by the Claimant prior to the arbitration hearing.

#### ***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. All claims against Respondent Broadcast Capital Corporation are dismissed in their entirety;
2. All claims against Respondent F. T. Bank in his individual capacity are dismissed in their entirety;
3. All claims against Respondent William Blackwell in his individual capacity are dismissed in their entirety;
4. All claims against Respondents Kenbee Limited Partners and Kenbee Nankin Associates are dismissed in their entirety;
5. Respondent F. T. Bank and Associates, Inc., in its corporate capacity as per the representations of its majority shareholders, is liable for and shall pay Claimant \$40,000. This amount includes prejudgment interest;
6. Respondent Vanguard Capital is liable for and shall pay Claimant \$280,000. This amount includes prejudgment interest. As a condition thereto, Claimant shall surrender to Respondent Vanguard Capital all of her right, title and interest in the two units of Nankin limited partnership she originally acquired in May of 1990. As part of said surrender/assignment, Claimant shall also furnish Respondent Vanguard Capital with any and all distributions inclusive of interest and/or dividend income she has received since January 1995 due to her ownership of said two units of Nankin limited partnerships she acquired in May 1990;
7. All claims for punitive damages are dismissed in their entirety;
8. All claims for treble damages are dismissed in their entirety;
9. The parties shall each bear their respective attorney's fees;
10. The parties shall each bear their respective costs.

#### ***Other Costs***

None.

#### ***Forum Fees***

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., hearing deposit for this case is \$1,000, initially waived by the NASD and not previously paid by the claimant. Forum fees are

assessed against Claimant for \$8,450 and against Respondents Vanguard Capital and F. T. Bank and Associates, jointly and severally for \$8,450, calculated as follows:

|   |   |          |
|---|---|----------|
| Three prehearing sessions at \$300/session  | = | \$ 900   |
| 16 hearing sessions at \$1,000/session  | = | \$16,000 |
| Total forum fees assessed   | = | \$16,900 |
| Claimant's assessment   | = | \$ 8,450 |
| Respondents' (F. T. Bank and Associates and Vanguard Capital, jointly and severally | = | \$ 8,450 |


Claimant was also assessed an adjournment fee of \$1,000 pursuant to the prehearing conference held on May 5, 1994, which has not been paid, is affirmed by the panel and is owed to the NASD.

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

***Arbitration Panel***

| <b><i>Name</i></b> | <b><i>Public/Industry</i></b> |
|--------------------|-------------------------------|
| Elliott Finkel     | Public                        |
| Milton Bennett     | Industry                      |
| Samuel Dulberg     | Public                        |

***Concurring Arbitrators' Signatures***

  
\_\_\_\_\_  
Elliott Finkel

\_\_\_\_\_  
Milton Bennett

\_\_\_\_\_  
Samuel Dulberg

***Date of Decision:***

Served 7/24/95

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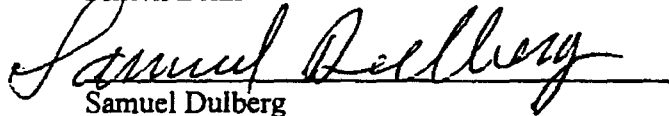
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