

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Renee Baron

NASD Arbitration
No. 92-04231

Name of Respondent(s)

Financial Network Investment Corporation
A. Mildred Harvey

REPRESENTATION

For Claimant: Reed H. Bement, Esq., Law Offices of Reed H. Bement, Inc., San Francisco, California

For Respondents: Louis H. Castoria, Esq., Wilson, Elser, Moskowitz, Edelman & Dicker, San Francisco, California

CASE INFORMATION

Statement of Claim filed: December 17, 1992

Claimant's Submission Agreement signed: February 12, 1993

Statement of Answer filed by Respondent Financial Network Investment Corporation: December 17, 1992

Statement of Answer filed by Respondent A. Mildred Harvey: December 17, 1992

Respondents' Submission Agreements signed as follows:
Financial Network Investment Corporation: March 8, 1993
A. Mildred Harvey: March 1, 1993

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Dates/Sessions: July 14, 1993 (two sessions)
July 15, 1993 (two sessions)
July 21, 1993 (three sessions)

Hearing Location: San Francisco, California

CASE SUMMARY

Regarding limited partnership investments, Claimant alleged fraud, negligent misrepresentation, breach of fiduciary duty, negligence and violation of Sections 25401 and 25501 of the California Corporations Code. Claimant further alleged 1) that the investments were inappropriate and unsuitable for Claimant; 2) that the limited partnerships involved a great deal of risk; 3) that the investments involved the payment of high commissions which significantly diluted the value of Claimant's investments; 4) that the limited partnership investments were not readily saleable; and 5) that the limited partnership investments were designed for investors having need of non-taxable income. Claimant also alleged that Respondents recommended to Claimant and solicited her investment in highly speculative securities without fully disclosing the inordinate risk of loss created by such positions and alleged that Financial Network Investment Corporation failed to properly supervise A. Mildred Harvey in her handling of Claimant's funds.

Respondents denied each and every allegation contained in Claimant's Statement of Claim and denied that Claimant has been damaged in the sums alleged in the Statement of Claim, or in any sum, by any conduct of Respondents. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested the following damages as amended at hearing:

1. Damages in the amount of \$194,102.00 as compensation for monetary losses, and upon satisfaction of judgment, Claimant will convey to Respondents all investments listed as zero value;
2. Damages in the amount of \$101,510.00 for lost business opportunity; and
3. Punitive damages against Financial Network Investment Corporation.

Respondents requested:

1. That Claimant take nothing by way of her Claim;
2. Costs; and
3. Such other relief as the panel may deem just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Claimant's claims were originally filed in the Superior Court of the State of California, County of Contra Costa, Action No. C 90-04203. Pursuant to the stipulation of the parties, through their counsel, the Court proceedings were stayed pending a final determination in arbitration.

At the outset of the evidentiary hearing, the arbitrators reviewed and considered the positions of the parties relative to Respondents' Motion to Dismiss certain claims based on Section 15 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure. The arbitrators granted Respondents' Motion with respect to claims arising from investments made on or before March 16, 1983, and denied Respondents' Motion with respect to claims arising from investments made on or after October 12, 1983.

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.

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 Financial Network Investment Corporation and A. Mildred Harvey are jointly and severally liable for and shall pay to Claimant the sum of \$53,500.00. Claimant shall retain ownership of all investments at issue.
2. Claimant's claim for lost business opportunity is denied.
3. Claimant's claim for punitive damages is denied.
4. The parties shall each bear their respective costs including attorney's fees.


FORUM FEES

The NASD shall refund the \$750.00 hearing session deposit previously deposited by the Claimant. Because of the administrative adjournment of the hearing sessions scheduled on July 13, 1993, the arbitrators have determined that forum fees shall not be assessed in this matter.

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Joanna Leighton, Esq.	Public Arbitrator
Ralph A. Cotton	Public Arbitrator
Robert Fisher	Industry Arbitrator

Concurring Arbitrators' Signatures


Joanna Leighton, Esq.

Date Served: 08/09/93

Ralph A. Cotton, CPA

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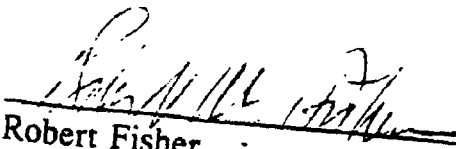
<u>Name</u>	<u>Public/Industry</u>
Joanna Leighton, Esq.	Public Arbitrator
Ralph A. Cotton	Public Arbitrator
Robert Fisher	Industry Arbitrator

Concurring Arbitrators' Signatures

Joanna Leighton, Esq.



Ralph A. Cotton, CPA


Robert Fisher

Date of Decision: _____

Date Served: 08/09/93