

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimant**

Patricia Brady

vs.

**AWARD**

**NASD #93-00570**

**Name of Respondents**

Planned Investments, Inc.,  
IFG Network Securities, Inc.,  
M. Douglas Woodring,  
Beverly F. Tanner,  
Marvin Pheffer,  
Howard Ledbetter

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**REPRESENTATION**

For Claimant: Richard Sacks of Investors Recovery Service of Novato, California  
James Sullivan, Esq. of San Francisco, California.

For Respondents: Gary Barnes, Esq. of Gambrell & Stolz of Atlanta, Georgia for IFG Network Securities, Inc. and Howard Ledbetter.

James McGuone, Esq. of Gambrell & Stolz of Atlanta, Georgia for Planned Investments, Inc., M. Douglas Woodring, Beverly F. Tanner and Marvin Pheffer

**CASE INFORMATION**

Statement of Claim filed: February 17, 1993

Claimant's Submission Agreement signed: January 21, 1993

Statement of Answer filed by Respondents on:

IFG Network Sec and Howard Ledbetter on April 29, 1993

Respondents Planned Investments, Inc., M.D. Woodring, Beverly Tanner and Marvin Pheffer on May 17, 1993

Respondent Craig Hall filed a Notice of Bankruptcy Stay on April 8, 1993 and the action was stayed as to him.

Respondents' Submission Agreements signed on:

M. D. Woodring on March 29, 1993

Beverly Tanner on April 26, 1993

IFG Network Securities, Inc. on April 29, 1993

Howard Ledbetter on April 27, 1993

Planned Investments on April 27, 1993

Marvin Pheffer on May 11, 1993

Respondent Craig Hall did not file a Submission Agreement, but filed a Notice of Bankruptcy Stay and the action was stayed as to him.

### **HEARING INFORMATION**

Prehearing Conference(s) Date(s)/(Sessions): None.

Hearing Date/(Sessions):     September 7, 1993 (two sessions)  
   September 8, 1993 (two sessions)  
   September 9, 1993 (two sessions)  
   September 10, 1993 (two sessions)

Hearing Location: San Francisco, California

### **CASE SUMMARY**

Claimant alleged: Misrepresentation, unsuitability, breach of fiduciary duty and violation of National Association of Securities Dealers' Rules of Fair Practice and failure to supervise in the sale of limited partnerships. Claimant opened an account with Respondent Douglas Woodring (Woodring) in February of 1987, who was associated with Respondent Planned Investments, Inc. (PII). Claimant explained to Woodring that her objectives were safety, growth and income. She purchased eight limited partnerships totaling \$212,000.

Claimant was regularly provided with computer printouts on her securities holdings quarterly, which showed her cost basis and the current value. The value was carried at the original cost. Brady became concerned over the last two years because the income stream from the partnerships decreased substantially. Woodring never advised her that there were substantial losses in the limited partnerships.

Respondents Beverly Tanner, (Tanner) Marvin Pheffer, (Pheffer) and Craig Hall were named because they were principals and designated as control persons at the time the partnerships were purchased. Howard Ledbetter (Ledbetter) and IFG Network Securities (IFG) were named because he is the president of that company which appears to be the successor/sister company to PII.

Respondents IFG and Ledbetter denied, generally and specifically, each and every allegation of wrongdoing in the Statement of Claim and alleged: IFG had nothing to do with the subject limited partnerships. IFG's connection with PII is that it is an affiliated company in that the company which owns the stock of PII is 100% owned by a parent corporation which is the same corporation which owns the stock of the parent corporation of IFG. PII and IFG exist as separate and distinct companies. Ledbetter's only relationship with the matter is that he is president of IFG. He cannot be individually liable for allegations of Claimant merely as an officer without any allegation concerning involvement or direct supervision.

Respondents PII, Woodring, Tanner and Pheffer denied, generally and specifically, each and every allegation of the Statement of Claim and alleged: Claimant is an articulate and well-educated individual, self-employed in the real estate brokerage business. When first introduced to Woodring, she already owned a number of interests in limited partnerships, and had been active in such partnerships since at least 1981. She rejected a more conservative portfolio suggested by Woodring prior to investing in the subject partnerships.

Claimant was fully advised of all material facts concerning the investments. She received and reviewed the prospectus or offering memorandum of each of the partnerships. She was continuously apprised of the performance and operating condition of the partnerships by way of quarterly and annual reports and K-1 reporting statements. Moreover, Woodring had numerous conversations and correspondence with Claimant relating to the ongoing operational problems.

### **RELIEF REQUESTED**

Claimant requested:

1. Actual loss of \$227,050 and any additional award the arbitration panel deems appropriate;
2. Punitive damages, requested at the hearing.

### **OTHER ISSUES CONSIDERED & 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. The following motions were made at the hearing:

1. Respondents IFG and Ledbetter made Motions to Dismiss (Ledbetter's was granted on the first day and IFG's was granted at the conclusion of the Claimant's case);
2. Respondents Pfeffer and Tanner made Motions for Summary Judgment, which are hereby denied;
3. Respondents PII, Tanner, Pfeffer and Woodring made other, separate Motions for Summary Judgment, which are hereby denied.

### **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 Planned Investments, Inc., M. Douglas Woodring and Marvin Pfeffer are jointly and severally liable for and shall pay Claimant \$20,000;
2. All other claims, including the claim for punitive damages, are dismissed.
3. The parties shall each bear their respective attorney's fees;
4. The parties shall each bear their respective costs.

### **OTHER COSTS**

None.

### **FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc. shall retain the \$750 hearing session deposit previously deposited by the claimant. Forum fees assessed against:

None assessed.

ARBITRATION PANEL

Name

Public/Industry

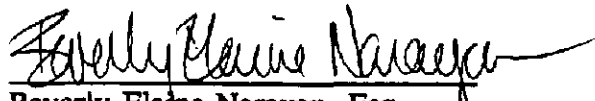
John B. Reilley  
Beverly Elaine Narayan, Esq.  
Robert Fisher

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

Concurring Arbitrators' Signature

DATE SERVED: 09/21/93

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John B. Reilley

  
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Beverly Elaine Narayan, Esq.

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Robert Fisher

Date of Decision:

September 16, 1993