

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

**In the Matter of the Arbitration
Between**

Name of Claimant

VIRGINIA K. SIMPSON

CASE No. 93-04472

v.

Name of Respondents

**IDEAL SECURITIES, INC.,
HI-TECH RESOURCES, INC.,
DONALD RAY TYNER, JR.,
& GREGORY ALAN REED**

REPRESENTATION

For Claimant, Virginia K. Simpson ("Mrs. Simpson"): Allan J. Fedor, Esq. of Fedor & Fedor, of Largo, Florida.

Respondents, Ideal Securities, Inc., Hi-Tech Resources, Inc., Donald Ray Tyner, Jr., and Gregory Alan Reed, did not appear and were not represented at the hearing.

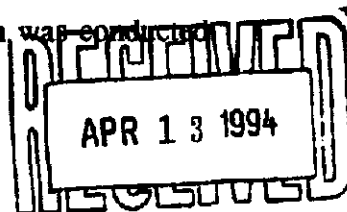
CASE INFORMATION

Statement of Claim filed: May 14, 1993 and amended October 19, 1993, and December 1, 1993.
Claimants' Submission Agreement signed on February 12, 1993.

Respondents did not file an Answer or execute Submission Agreements as required by Section 25 of the Code of Arbitration Procedure.

HEARING INFORMATION

On February 23, 1994, in Tampa, Florida, a hearing lasting one session was conducted.



CASE SUMMARY

This claim arises out of telephone sales of unregistered securities. Claimant alleged that after succumbing to a high-pressure sales pitch by a James Nealy, she invested a total of \$29,800 in two oil and gas drilling "joint ventures" in 1991. The "joint ventures" were conducted by Hi-Tech Resources and offered to Claimant over the telephone by James T. Nealy, a representative of Ideal Securities. Claimant alleged that Tyner and Reed were officers and directors of both Hi-Tech Resources and Ideal Securities and were directly involved in the transactions. Their names appear in their official capacities in the acceptance portions of the subscription papers.

Claimant also alleged that after making the investments through Ideal Securities, she was "assessed" additional amounts on her so-called joint venture interests by Hi-Tech Resources. Claimant alleged that in 1992 she therefore made additional payments to Hi-Tech Resources of \$3,250.00 and \$3,313.41.

Claimant alleged that the Securities Commissioner of the State of Texas subsequently found that the sale of those "joint ventures" constituted a fraudulent sale of unregistered securities. Claimant further alleged that the securities were never registered in Florida.

Claimant alleged that Respondents' conduct: 1) violated Florida securities laws under F.S. §§517 et seq; 2) violated rules of the NASD; 3) constituted common law misrepresentation, fraud and deceit, negligence and/or gross negligence; and 4) constituted a breach of their fiduciary duty to Claimant.

Claimant further alleged that Respondents Ideal Securities and Hi-Tech Resources failed to properly supervise the activities of their agents and representatives and that Respondents Ideal Securities and Hi-Tech Resources were responsible for the conduct of their agents and representatives under the common law theory of respondeat superior. Claimant also alleged that Ideal Securities and Hi-Tech Resources were the alter egos of Respondents Tyner and Reed and, therefore, Tyner and Reed were personally liable to Claimant; Tyner and Reed were also liable as owners, officers and directors of Ideal Securities and of Hi-Tech Resources; Both Ideal Securities, Inc. and Hi-Tech Resources, Inc. were registered securities broker/dealers.

Respondents did not file an Answer or any form of responsive pleading. Mr. Fedor presented the panel with a letter which served as an NASD Code of Arbitration Section 25(b) motion to bar Respondents from presenting any facts, matters, arguments or defenses at the time of hearing.

RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$44,269.07, plus interest, costs, expenses, and reasonable attorneys' fees. Claimant also requested punitive damages.

Respondents did not appear for the hearing either in person or through a representative or counsel. No relief was therefore requested by Respondents.

OTHER ISSUES CONSIDERED & DECIDED

1. The panel received substantial evidence from both the NASD and from Fedor & Fedor regarding the repeated methods and attempts to serve Respondents with the claim, amended claims, notices of their having been named as a party, hearing notices and hearing advance sheets showing the time, date, and place of the hearing and the appointed arbitrators. Mr. Fedor presented evidence regarding Respondent's duty to arbitrate pursuant to page 4, paragraph 5 of Form U-4, Uniform Application For Securities Registration or Transfer. Mr. Fedor also presented the panel with certified affidavits of James Jackson, a private process server registered to serve process in Texas, attesting that he had personally served all four of the named respondents. The panel therefore finds that the Respondents had been afforded proper notice of the claims made against them as well of the time, date and place of the hearings. Accordingly, the panel is able to render its award and specifically finds that all reasonable attempts had been made to apprise the Respondents of the claims against them and the time, place, and date of the hearings. Despite such notice, the Respondents elected not to appear or to present any defense whatsoever.

2. The panel considered all relevant evidence presented. The panel ruled that all hearsay evidence that was admitted would be given its appropriate weight.

3. The Claimant has 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 Claimant has 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 are liable, jointly and severally, to Claimants for compensatory damages of \$44,269.07. Liability is found pursuant to F.S. §§517.07, 517.12, 517.301 and 517.211.

2. Respondents shall pay the Claimant's costs and expenses in the amount of \$3,103.70. Costs and expenses are awarded pursuant to F.S. §517.211.

3. The panel found that Respondents engaged in willful, wanton and gross misconduct, that the conduct complained of was of such a character as to evidence an entire want of care, raising a presumption of conscious indifference to its consequences and that Respondents' conduct evidenced a gross and careless disregard for Claimant's safety as well as a reckless indifference to her rights so as to be equivalent to an intentional violation of her rights. Accordingly, Respondents are found liable, jointly and severally, for punitive damages in the amount of \$250,000.00.

4. Interest at the legal rate of 12% per annum is awarded on each of the amounts stated above, including costs and expenses, from the day following the last hearing session, to and inclusive of the date the award is paid in full by Respondents.


FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$400.00 (\$400.00 x one (1) session).


1. Respondents are hereby assessed forum fees totaling \$400.00, which shall be paid directly to Claimant.
2. The NASD shall retain the \$120.00 non-refundable filing fee paid by the Claimant.
3. Respondents shall reimburse the Claimant \$120.00 for the non-refundable filing fee.

ARBITRATION PANEL

Concurring Arbitrators' Signatures:


R. Andrew Duncan, Esq. Public/Chairman


Jean M. Lang Public/Panelist


Archibald L. Watkins Industry/Panelist

Date of Decision: April 19, 1994