

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the matter of the Arbitration Between

Alice A. Koenig
Claimant

NASD Arbitration
No. 94-01613

v.

Financial Network Investment Corporation
Roy F. Johnson
Respondents

REPRESENTATION

For Claimant: Dennis R. Villavicencio, Esq., and John Lawrence Allen, Esq., Carlsbad, California

For Respondents: Michael Kirby, Esq., and Mary Waltari, Esq., Post Kirby Noonan & Sweat, San Diego, California

CASE INFORMATION

Statement of Claim was filed on May 2, 1994; Claimant's submission agreement was signed on April 27, 1994.

A Joint Statement of Answer was filed on July 26, 1994; the submission agreement of Financial Network Investment Corporation was signed on June 7, 1994, and that of Roy F. Johnson was signed on July 5, 1994.

HEARING INFORMATION

The evidentiary hearing was held in San Diego, California, on December 13, 1994 (2 sessions), and December 14, 1994 (2 sessions).

CASE SUMMARY

Claimant alleged Respondents recommended highly speculative limited partnerships that were not suitable for her age, financial situation and station in life, and further that Respondents

made fraudulent and negligent statements and omitted material facts regarding the risks and speculative nature of the limited partnerships, and intentionally misrepresented the value of the limited partnership interests on the summaries prepared for her. Claimant also alleged breach of fiduciary duty, failure to supervise, elder abuse, common law fraud, negligent misrepresentation, breach of oral contract, violation of NASD rule of fair practice, professional negligence, and violation of federal securities laws.

Respondents denied the allegations of the claim, and asserted that three of the investments complained of were not limited partnerships but REITs. Respondents further stated that at the time of purchase, all Claimant's investments were compatible with her objectives of preservation of capital, income and appreciation, and that Claimant met the suitability standards set forth in the limited partnership prospectuses. Respondents asserted that any losses suffered by Claimant were a result of market forces rather than any lack of suitability.

Respondents further asserted that all claims are barred by applicable statutes of limitations and the doctrine of laches.

RELIEF REQUESTED

Claimant requested damages of \$90,250, plus interest, costs and expenses of arbitration, punitive damages and attorney's fees.

Respondents requested dismissal of all claims.

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.

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 jointly and severally liable for and shall pay to Claimant the sum of \$33,000 in full satisfaction of all claims.
2. The parties shall each bear their respective attorneys' fees and costs.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain Claimant's \$150 non-refundable filing fee, and the \$500 hearing session deposit will be retained as an assessment of forum fees for 1 session.

Respondents are jointly and severally assessed \$1500 as forum fees for 3 sessions. Fees are payable to the NASD, Inc.

ARBITRATORS


Name

Diana G. Davis
Kenneth J. Gross
Richard M. Leigh

Public / Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures


Diana G. Davis

Kenneth J. Gross

Richard M. Leigh

Served 1/12/95

Date of Decision: _____

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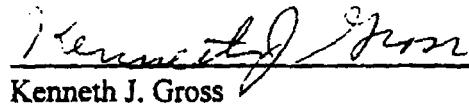
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Public / Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

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Kenneth J. Gross

Richard M. Leigh

Served 1/12/95

Date of Decision: Dec 14, 1994

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