

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-11179

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
September 12, 2003

SECURITIES & EXCHANGE COMMISSION  
MAILED FOR SERVICE

SEP 16 2003

FIRST CLASS

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In the Matter of	:	
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IFG NETWORK SECURITIES, INC.,	:	
WILLIAM KISSINGER, KISSINGER	:	ORDER DENYING
ADVISORY, INC., BERT MILLER,	:	SUMMARY DISPOSITION
GLENN WILKINSON, and	:	
DAVID LEDBETTER	:	

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Under consideration are (1) motions for summary disposition, filed August 25, 2003, by IFG Network Securities, Inc. (IFG) and David Ledbetter, and August 26 by William Kissinger and Kissinger Advisory, Inc. (Kissinger and KAI), pursuant to 17 C.F.R. § 201.250(a);<sup>1</sup> and (2) the opposition, filed September 2, by the Division of Enforcement (Division).<sup>2</sup>

The Order Instituting Proceedings (OIP) alleges that Kissinger, KAI, Bert Miller, and Glenn Wilkinson recommended that customers invest \$250,000 or more in Class B shares of mutual funds without disclosing advantageous features of Class A shares related to sales charges, and without disclosing that they would receive higher commissions when customers invested in Class B shares. In addition to these alleged omissions, the OIP alleges a failure to disclose that Class A shares “would have produced materially higher returns than Class B shares,” as a result of lower operating expenses, eligibility for breakpoints, and investment structuring options. The OIP charges Kissinger, KAI, Miller, and Wilkinson with violations of

<sup>1</sup> The remaining Respondents also request summary disposition, based on IFG’s and Kissinger and KAI’s pleadings. The hearing is expected to commence on approximately October 20, 2003. The Division and IFG have reached a settlement and are taking steps to place it before the Commission.

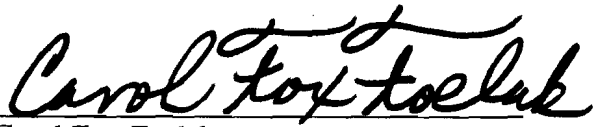
<sup>2</sup> Glenn Wilkinson filed a reply on September 9. Reply pleadings were not contemplated. See IFG Network Sec., Inc., Admin. Proc. File No. 3-11179 (A.L.J. Aug. 25, 2003) (unpublished) (setting due dates for motions for summary disposition and opposition). In any event, issues Wilkinson raises are dealt with in this order or in the Order on Motions for More Definite Statement, IFG Network Sec., Inc., Admin. Proc. File No. 3-11179 (A.L.J. Sept. 12, 2003) (unpublished).

the antifraud provisions of the securities laws and charges IFG and Ledbetter with failing to supervise them with a view toward preventing their violations.<sup>3</sup>

The motions for summary disposition, in essence, argue that the securities laws permit the selling of Class B shares and that there is no basis in law for the charges against Respondents, particularly concerning the alleged failure to disclose that Class A shares would allegedly outperform Class B shares. The Division's opposition, in substance, argues that alleged material omissions underlie the charges.

Pursuant to 17 C.F.R. § 201.250(a), "The facts of the pleadings of the party against whom the motion is made shall be taken as true." In its opposition, the Division specifies that Respondents allegedly recommended Class B shares as advantageous by saying that they had no front-end load so that the customers would benefit by investing all of their money up front in a rising market. Thus, the Division argues, Respondents' alleged failure to inform the customers of alleged advantages of Class A shares, including the effect of allegedly lower sales charges and expenses on performance, were omissions to state material facts necessary to make their statements concerning Class B shares not misleading. The Division argues that such disclosure would have enabled each customer to make an informed investment decision. Omissions to state a material fact can form the basis for a violation of the antifraud provisions.

Accordingly, Respondents' motions for summary disposition ARE DENIED.



Carol Fox Foelak  
Administrative Law Judge

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<sup>3</sup> Specifically, the OIP charges violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and Sections 206(1) and 206(2) of the Investment Advisers Act of 1940.