

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Gary Phillips

89-03179

Name of Respondent(s)

Kober Financial Corp.

Heard before the Arbitrator:

David A. Townsend, Esq.

CASE SUMMARY

This claim was filed with the NASD, Inc. on November 14, 1989. The hearing was conducted in Tampa, Florida on September 12, 1990 with a total of one session.

Claimant, Gary Phillips ("Phillips"), alleged that Respondent, Kober Financial Corporation ("Kober"), was liable for failure to execute a trade. Claimant alleged that he gave a limit order to his broker to sell a certain stock and that the broker had been instructed by Respondent's management not to sell until after they had sold their personal stock.

Respondent alleged that: they never instructed any registered representative not to accept sell orders for any stock; and the bid price of Claimant's stock never reached the limit Claimant gave his broker.

The Claimant failed to appear at the hearing, however, pursuant to Section 29 of the NASD Code of Arbitration Procedure, the arbitrator found that there was due notice to the Claimant and proceeded with the arbitration of the controversy.

RELIEF REQUESTED

Claimant requested damages in the amount of \$1,950.00. Respondent requested dismissal of the claim plus costs.

AWARD

On September 12, 1990, the arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on September 12, 1989, and by Respondent on February 5, 1990. The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Kober, is not liable to the Claimant and, therefore, all claims against it are hereby dismissed.
2. Claimant, Phillips, is hereby liable and shall pay to Respondent the amount of Five Hundred Twenty One and 00/100 (\$521.00) Dollars for costs.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrator has assessed Claimant forum fees in the amount of Twenty Five and 00/100 (\$25.00) Dollars. The NASD, Inc. shall retain the Twenty Five and 00/100 (\$25.00) Dollar filing fee previously deposited by the Claimant with the NASD, Inc. in full satisfaction of such forum fees.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

OTHER ISSUES

None.

ARBITRATOR CONCURRING


David A. Townsend, Esq.

Dated: October 4, 1990