

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Steven Levine

Name of Respondent(s)

Kober Financial Corp.
Larry Palamino

Name of Third Party Respondent

Craig Vaccaro

JAN 8 1991
ARBITRATION-CHIC.

90-00998

CASE SUMMARY

In a Statement of Claim filed with the NASD on April 5, 1990, Claimant Steven Levine alleged that Respondents failed to execute his market order to sell 7000 shares of over-the-counter stock on June 8, 1989 and that Respondent Palomino interfered in his placing his orders to sell with his broker.

In a Statement of Answer and Third Party Claim filed with the NASD on June 4, 1990, Respondents Kober Financial Corp. and Larry Palomino denied "blocking and/or interfering" with Claimant's market order and further denied ever receiving a market order to sell the shares of stock. Respondents alleged that a limit order was received from Claimant on June 9, 1987 with the limit price of \$.7775 which could not be obtained on that day. Respondents further alleged that Claimant failed to state a claim up on which relief may be granted and that the claims are barred by the doctrines of waiver, estoppel and laches.

Respondents filed a Third Party Claim against Third Party Respondent Craig Vaccaro, alleging that as Claimants' account representative, Third Party Respondent Vaccaro is liable to Respondents if Claimants allegations of placing a market order were true. Respondents further alleged that Third Party Respondent Vaccaro is liable for failing to comply with Claimants instructions and substituting a limit order.

In a Statement of Answer filed with the NASD on June 13, 1990, Third-Party Respondent Craig Vaccaro denied any liability to Respondents, stating

affirmatively that a market order was entered on June 7, 1989 and that the order was interfered with by the Respondents.

RELIEF REQUESTED

Claimant Steven Levine requested that an award be entered against Respondents Kober Financial Corp. and Larry Palomino for \$5,860.40 in actual damages, and \$4,140.00 in punitive damages.

Respondents Kober Financial Corp. and Larry Palomino requested that an award be entered denying Claimant's Statement Claim, for fees and costs incurred in defending the matter, and for such other relief as is just and reasonable. Respondents further requested that Third Party Respondent Craig Vaccaro be found liable to Respondents in the event that Respondents Kober Financial and Palomino are found liable to Claimant, in the amount of such award.

Third Party Respondent Craig Vaccaro requested that the Third Party Claim be dismissed.

PROCEDURAL MATTERS

On May 29, 1990, Claimant filed a Motion pursuant to Section 25(b)(2)(iii) seeking to bar Respondents from presenting any matter, arguments, or defenses at hearing. The motion was presented at hearing and after hearing the presentation of all parties, the arbitrator denied the motion and allowed Respondents to present their case.

AWARD

On October 23, 1990 and October 25, 1990, in Denver, Colorado, during a hearing lasting a total of four sessions, the undersigned Arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on March 30, 1990 by Claimant Steven Levine, on May 21, 1990 by Richard M. Gawlik on behalf of Respondent Kober Financial Corp., on October 23, 1990 by Respondent Larry Palomino, and on October 23, 1990 by Third Party Respondent Craig Vaccaro.

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 original remains on file with the NASD.

The Arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is dismissed and denied in its entirety;
2. Respondents' Third Party Claim is dismissed and denied in its entirety;
3. The parties shall each bear their own costs, including attorneys'

fees, except for those specifically enumerated herein.


4. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the \$200.00 filing fee previously deposited with the NASD by the Claimant Steven Levine. Respondent Kober Financial Corp. is liable for and shall pay to the NASD forum fees in the amount of \$800.00.

Arbitrator's Signature

Dated:

Jan 3, 1991

/s/


Edward O'Keefe, Esq.