

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration BetweenName of Claimants

Richard and Mary Virgile

vs.

90-02043

Name of Respondent

Robert Todd Financial Corp.

REPRESENTATION

For Claimant: Pro se.

For Respondent: Alphonse Mekalainas, Compliance Officer.

CASE INFORMATION

Statement of Claim filed: July 23, 1990.

Claimant's Submission Agreement signed on: June 24, 1990.

Statement of Answer filed on: September 11, 1990.

Respondent's Submission Agreement signed on: September 07, 1990.

HEARING INFORMATION

Hearing Date/Hearing Session: August 15, 1991 - One session.

Hearing Location: New York, New York.

CASE SUMMARY

Claimant, Richard Virgile, alleges that on January 16, 1990, Michael E. Rooney, a registered representative at Robert Todd Financial Corp., called him after obtaining his name from J.T. Moran's files. Claimant also alleges when that Rooney advised him that the price of his ISTEK stocks which he purchased through J.T. Moran dropped from 3 1/2 to 1 1/2 per share, he instructed and Rooney agreed that the shares could be sold immediately even though the stock certificates were being held at Financial Clearing &

Services Corp. Claimant further alleges that when Rooney later told him that he would have to have the certificates, Claimant gave Rooney written authorization to transfer the stocks to Robert Todd. Claimant contends that Rooney failed to timely sell his stock and as a result he sustained damages. Claimant also alleges that Rooney represented that he would only be charged three percent commission and he was charged five percent commission on the sale.

Respondent denies the allegations and argue that it acted professionally and responsibly with respect to the Claimants' account. Respondent contend that it was against company policy to sell the stock without with stock being in the Claimants' account. Respondent alleges that the stock was illiquid and a sale of 10,000 block would have the effect of depressing the price of the stock.

RELIEF REQUESTED

Claimants request that the arbitrator award them \$10,162.50 in actual damages, \$106.75 in commission overcharge, \$100.00 attorney's fee, \$400.00 arbitration fee; penalty of \$10,162.50, plus interest from January 16, 1990 at a rate of one percent per month.

Respondent requests that all claims be denied.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Robert Todd Financial Corp., is hereby liable for failing to supervise Michael E. Rooney and shall pay Claimant Five Thousand Four Hundred and Four Dollars and Fifty Cents (\$5,404.50);
2. No interest is awarded on the above sum;
3. The claim attorney's fees is denied;
4. The claim for punitive damages is denied;

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1. The NASD has received and shall retain the \$100.00 non-refundable filing fee paid by the Claimants and this amount shall be applied to any

amount assessed;

2. The NASD has received and shall retain the \$300.00 hearing session deposit previously made by the Claimants and this amount shall be applied to any amount assessed;

3. Claimant is assessed \$100.00 non-refundable filing fee;

4. Claimant is assessed \$300.00 forum fee for one hearing session at \$300.00 per session.

ARBITRATOR

Joseph M. Weitzman, Esq.

Sole Public Arbitrator

Arbitrator's Signature



Joseph M. Weitzman, Esq.

Date of Decision:

DATED BY NASD
AUGUST 22, 1991