

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Dennis Siddall

91-03670

Name of Respondents

Kober Financial Corporation and
Francis Holland

REPRESENTATION

For Claimant: Mitchell Scott Paul, Esq., Minneapolis, Minnesota.

For Respondents: Dennis A. Graham, Esq., of Hopper and Kanouff,
Denver, Colorado.

CASE INFORMATION

Statement of Claim filed: January 2, 1992.

Claimant's Submission Agreement signed on: November 6, 1991.

Joint Statement of Answer filed by Respondents on: February 12,
1992.

Respondent, Kober Financial Corp's Submission Agreement signed
on: March 10, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: August 17, 1992 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimant Dennis Siddall ("Siddall") alleged that Respondent Kober Financial Corporation ("Kober"), through its agent, Respondent Francis Holland ("Holland") made unauthorized and unsuitable trades in Siddall's account and churned Siddall's account. Siddall alleged that Holland pressured Siddall into purchasing 8,000 shares of stock in Acclaim Entertainment. Siddall alleged that Holland persuaded him to purchase approximately \$260,000 worth of risky stocks in a five-month period such as Brush Creek and Micropolis which were unsuitable. Siddall alleged the following violations: churning, respondeat superior, Minn. Stat. Sections 80A.01 and 80A.03, breach of fiduciary duties (Common Law and Minn. Stat. Section 45.026, negligence, Article III, Section one of the NASD Rules of Fair Practice, and Common Law Fraud.

Respondents alleged that Siddall's account was managed in the precise manner he desired and in strict accordance with his investment objectives. Respondents further alleged that "the trading in Siddall's account was not excessive in light of Siddall's investment objectives and Holland never exercised control over the account with the intent to defraud Siddall or with willful and reckless disregard for Siddall's interest." Respondents alleged that Siddall authorized every transaction undertaken by Holland.

RELIEF REQUESTED

Claimant requested compensatory damages in excess of \$50,000.00, punitive damages in the amount of \$50,000.00, attorney's fees, interest, costs, disbursements and expenses, and such other relief as the arbitrators deem just and equitable.

Respondents requested that the claim be denied and further requested their fees and costs, including reasonable attorney's fees, and for such other and further relief as the Panel deems just and proper.

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.

Respondent Francis Holland did not file with the NASD a properly executed Submission Agreement, but having answered the claim, appeared and testified, is bound by the conclusions of the panel on all issues submitted for determination.

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. The Claimant's Statement of Claim is denied in its entirety;

2. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated for herein;

FORUM FEES

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

2 sessions X \$500.00 = \$1000.00 minus hearing session deposit of \$500.00 = net \$500.00 due.

Forum fees Assessed Against: Respondents Kober Financial Corporation and Francis Holland, jointly and severally, in the amount of \$500.00.

Fees are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel

Dated:

s/s Albert A. Woodward, Esq. Chairperson
Public Arbitrator

October 2, 1992

s/s Angela R. Banga, Esq.
Public Arbitrator

October 2, 1992

s/s Terrence J. Fleming, Esq.
Industry Arbitrator

October 5, 1992

Date Award Served By The NASD: October 13, 1992