

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Henry Goedtel

92-00037

Name of Respondents

Kober Financial Corp.
Randolph Kahl-Winter

REPRESENTATION

For Claimant: John A. Vizzi, Esq. of Long, Tuminello, Besso, Seligman & Quinlan.

For Respondent, Kober Financial Corp.: Rick J. Rouse of Kober Financial Corp.

For Respondent, Randolph Kahl-Winter: Randolph Kahl-Winter, appearing pro-se.

CASE INFORMATION

Statement of Claim filed: January 3, 1992

Claimant's Submission Agreement signed on: October 21, 1992.

Statement of Answer filed by Respondent, Kober Financial Corp. on: March 18, 1992.

Respondent, Kober Financial Corp.'s Submission Agreement signed on: March 16, 1992.

Statement of Answer filed by Respondent, Randolph Kahl-Winter on: November 18, 1992.

Respondent, Randolph Kahl-Winter, did not submit an executed Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions: October 21, 1992 - 2 Sessions
 May 19, 1993 - 1 Session

Hearing Location: NASD Offices - New York, NY.

CASE SUMMARY

Claimant alleges that his account with Respondent, Kober Financial Corp. ("Kober") was transferred from his broker to Respondent, Randolph Kahl-Winter ("Kahl-Winter"). Claimant alleges that he instructed Kahl-Winter not to touch his account without his instructions. Claimant alleges that Kahl-Winter executed unauthorized transactions in his account and when Claimant later complained of the transactions, Kahl-Winter and representatives at Kober stated that the transactions would be reversed. Claimant alleges that subsequently, Kahl-Winter asserted that the transactions had been authorized.

Respondent, Kober Financial Corp. denied that any wrongdoing occurred in connection with the Claimant's account. Respondent, Randolph Kahl-Winter maintains that the Claimant complained to him that he was not making any money with Kober. Further, Kahl-Winter maintains that Claimant specifically authorized him to trade penny stocks as he saw fit. Kahl-Winter maintains that he discussed the transactions complained of with the Claimant and that Claimant authorized each transaction.

RELIEF REQUESTED

Claimant damages in the amount of \$17, 985.00 plus punitive damages in the amount of \$100,000.00.

Respondent, Kober Financial Corp. requested that the Claim be dismissed.

Respondent, Randolph Kahl-Winter stated that the transactions were, in fact, authorized.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to the by-laws to the NASD, Respondent, Randolph Kahl-Winter was required to submit to this arbitration, notwithstanding his failure to submit an executed Submission Agreement. Accordingly, Kahl-Winter is bound by this panel's rulings and determinations.

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.

AWARD

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

- 1) Respondent, Kober Financial Corp. and Randolph Kahl-Winter are hereby jointly and severally liable and shall pay to the Claimant the amount of \$15,000.00. This amount is inclusive of interest.
- 2) The Claim for punitive damages is hereby denied.
- 3) Each party shall bear their respective costs of this action, including attorney's fees.

FORUM FEES

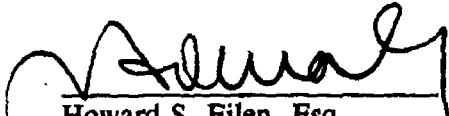
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

\$200.00	Non-refundable filing fee
\$2,250.00	Hearing Session Fees (\$750.00 x 3 Sessions)

- 1) The non-refundable filing fee of \$200.00 previously deposited by the Claimant shall be retained by the NASD, Inc.
- 2) Claimant is assessed hearing session fees in the amount of \$1,500.00. Claimant is entitled to offset this amount with the \$750.00 previously deposited with the NASD, Inc. Accordingly, Claimant is directed to pay the balance of \$750.00 to the NASD, Inc.
- 3) Respondents, Kober Financial Corp. and Randolph Kahl-Winter are hereby jointly and severally assessed the remaining hearing session fees in the amount of \$750.00 and are directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Chairperson


Howard S. Eilen, Esq.

Date of Decision: July 7, 1993

STATE OF NEW YORK
COUNTY OF *New York*

S.S.:

On this *21st* day of *June*, 1993, before me personally appeared Howard S. Eilen known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Lee D. Levy

LEE D. LEVY
Notary Public, State of New York
No. 41-4871804
Qualified in Queens County
Commission Expires *Jan. 31, 1995*

- 1) Respondent, Kober Financial Corp. and Randolph Kahl-Winter are hereby jointly and severally liable and shall pay to the Claimant the amount of \$15,000.00. This amount is inclusive of interest.
- 2) The Claim for punitive damages is hereby denied.
- 3) Each party shall bear their respective costs of this action, including attorney's fees.

FORUM FEES

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

\$200.00	Non-refundable filing fee
\$2,250.00	Hearing Session Fees (\$750.00 x 3 Sessions)

- 1) The non-refundable filing fee of \$200.00 previously deposited by the Claimant shall be retained by the NASD, Inc.
- 2) Claimant is assessed hearing session fees in the amount of \$1,500.00. Claimant is entitled to offset this amount with the \$750.00 previously deposited with the NASD, Inc. Accordingly, Claimant is directed to pay the balance of \$750.00 to the NASD, Inc.
- 3) Respondents, Kober Financial Corp. and Randolph Kahl-Winter are hereby jointly and severally assessed the remaining hearing session fees in the amount of \$750.00 and are directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Arbitrator


Matthew J. Tolan

Date of Decision: July 7, 1993

STATE OF NEW YORK
COUNTY OF

S.S.:

On this 30 day of June, 1993, before me personally appeared ^{Matthew J. Tolan}~~Mitchel Rothbard~~ known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



MARIA A. CAMPESE
Notary Public, State of New York
No. 52-4965360
Qualified in Suffolk County
Commission Expires April 16, 1994

- 1) Respondent, Kober Financial Corp. and Randolph Kahl-Winter are hereby jointly and severally liable and shall pay to the Claimant the amount of \$15,000.00. This amount is inclusive of interest.
- 2) The Claim for punitive damages is hereby denied.
- 3) Each party shall bear their respective costs of this action, including attorney's fees.

FORUM FEES

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

\$200.00	Non-refundable filing fee
\$2,250.00	Hearing Session Fees (\$750.00 x 3 Sessions)

- 1) The non-refundable filing fee of \$200.00 previously deposited by the Claimant shall be retained by the NASD, Inc.
- 2) Claimant is assessed hearing session fees in the amount of \$1,500.00. Claimant is entitled to offset this amount with the \$750.00 previously deposited with the NASD, Inc. Accordingly, Claimant is directed to pay the balance of \$750.00 to the NASD, Inc.
- 3) Respondents, Kober Financial Corp. and Randolph Kahl-Winter are hereby jointly and severally assessed the remaining hearing session fees in the amount of \$750.00 and are directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Industry Arbitrator



Mitchel Rothbard

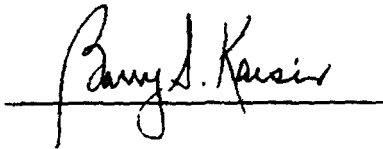
Date of Decision: July 7, 1993

STATE OF NEW YORK
COUNTY OF WESTCHESTER

S.S.:

~~MICHEL ROTHBARD~~

On this 30 day of June, 1993, before me personally appeared ~~Matthew J. Tolan~~ known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



BARRY S. KAISER
Notary Public, State of New York
No. 02KA4654130
Qualified in Nassau County
Commission Expires Jan. 31, 1994