

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Consolidated Matter of the Arbitration Between

Name of Claimants

Edward J. O'Connor
John J. O'Connor, Jr.
Donald E. Florence

CONSOLIDATED AWARD

92-01261
92-01275
92-01280

vs.

Name of Respondents

Robert Todd Financial Corp.
Steven Cloyes
Steven G. Kashian

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 10, 1992, Claimant Edward J. O'Connor, who appeared Pro Se, alleged that Respondents Robert Todd Financial Corp. and Steven Cloyes failed to execute the sale of 4,800 shares of American Aircraft Corp. and that he was unable to sell the stock until Steven G. Kashian moved to another brokerage firm. This Claimant contended that he is entitled to damages he suffered due to the Respondents' deliberate failure to sell his stock.

In a claim filed with the National Association of Securities Dealers, Inc. on April 13, 1992, Claimant John J. O'Connor, Jr., who also appeared Pro Se, alleged that Respondents Robert Todd Financial Corp. and Steven Cloyes failed to execute the sale of 7,200 shares of American Aircraft Corp., and that he was unable to sell the stock until Steven G. Kashian moved to another brokerage firm. This Claimant contended that he is entitled to damages he suffered due to the Respondents' deliberate failure to sell his stock.

In a claim filed with the National Association of Securities Dealers, Inc. on April 13, 1992, Claimant Donald E. Florence, who appeared Pro Se, alleged that Respondents Robert Todd Financial Corp. and Steven Cloyes failed to execute the sale of 10,000 shares of American Aircraft Corp. and that the stock was sold only after he made several calls with written instructions and threatened legal action. This Claimant further alleged that all clients who held this stock were at the Respondents' mercy, and that he should be compensated for the damages he has suffered.

Respondents Robert Todd Financial Corp. and Steven Cloyes, through their counsel, Lance B. Babbit, Esq. of Gersten, Savage, Kaplowitz & Curtain, New York, NY, maintained that in the claims filed by Edward J. O'Connor and John J. O'Connor, Jr., no sell order ever placed with the Respondents, and in the claim filed by Donald E. Florence, no sale was placed with the Respondents prior to March of 1992.

In a Third Party Claim filed with the National Association of Securities Dealers, Inc. by the Respondents Robert Todd Financial Corp. and Steven Cloyes, the Respondents alleged that Third Party Respondent Steven G. Kashian never gave orders to sell American Aircraft Corp. stock for the Claimants, and that Respondent Steven G. Kashian improperly requested a favor of Respondent Steven Cloyes when he asked him to sell his own shares of AARC stock for the prior trading days' price. The Respondents alleged that even at this time, no mention of the alleged sell orders was made. The Respondents further alleged that Respondent Steven G. Kashian sent copies of sell order tickets to the Claimants, which are for internal use only, because he was attempting to show his clients that he had their best interests in mind. The Respondents contended that Respondent Steven G. Kashian acted in an unethical and egregious manner towards his clients and the Respondents, and that he should be held liable for any losses experienced by the Claimants.

Third Party Respondent Steven G. Kashian, who appeared Pro Se, maintained that he did enter to sell orders for the sale of American Aircraft Corp. stock on behalf of his clients and that he sent copies of his sell orders to the Claimants to show them that he did follow their instructions. Respondent Steven G. Kashian also maintained he committed no wrongdoing and should not be held liable.

RELIEF REQUESTED

Claimant Edward J. O'Connor requested \$4,050.00 in actual damages.

Claimant John J. O'Connor, Jr. requested \$6,075.00 in actual damages.

Claimant Donald E. Florence requested \$9,062.50 in actual damages.

Respondents Robert Todd Financial Corp. and Steven Cloyes requested that the claims of the Claimants be dismissed, or in the event Respondents are found liable to the Claimants, that Third Party Respondent Steven G. Kashian be found liable for any damages suffered by the Respondents.

Third Party Respondent Steven G. Kashian requested that the claims against him be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David B. Marsan, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on April 2, 1992, by the Respondents Robert Todd Financial Corp. and Steven Cloyes on May 29, 1992, but not signed by Third Party Respondent Steven G. Kashian as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Robert Todd Financial Corp. and Steven Cloyes are jointly and severally liable and shall pay to Claimant Edward J. O'Connor \$4,050.00 in actual damages.
2. Respondents Robert Todd Financial Corp. and Steven Cloyes are jointly and severally liable and shall pay to Claimant John J. O'Connor, Jr. \$6,075.00 in actual damages.
3. Respondents Robert Todd Financial Corp. and Steven Cloyes are jointly and severally liable and shall pay to Claimant Donald E. Florence \$9,062.50 in actual damages.
4. The Third Party Claim of Robert Todd Financial and Steven Cloyes against Respondent Steven G. Kashian is dismissed in its entirety.
5. The parties shall bear their respective costs.
6. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by Claimant Edward J. O'Connor, as well as the \$150.00 filing fee previously deposited by Claimant John J. O'Connor, Jr. and the \$150.00 filing fee previously deposited by Claimant Donald E. Florence shall be retained by the NASD, Inc. Respondents Robert Todd Financial Corp. and Steven Cloyes are jointly and severally liable and shall pay these amounts to the Claimants respectively, in order to reimburse them for the filing fees.


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7. The \$575.00 Third Party Claim filing fee previously deposited with the National Association of Securities Dealers, Inc. by Respondents Robert Todd Financial Corp. and Steven Cloyes shall be retained by the NASD, Inc.

AFFIRMATION

I, DAVID E. MARSAN, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Signature of Arbitrator

DATE OF DECISION: February 10, 1993