

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Steven G. Kashian :

Claimant :

vs. :

Robert Todd Financial Corp. :

Steven Cloyes :

Respondents :
-----CASE #92-01262
AWARDCASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 10, 1992, Claimant Steven G. Kashian, who appeared Pro Se, alleged that in November 1991 he started to work as a registered representative for Respondent Robert Todd Financial Corp., whereby all orders were to be called in by Respondent Steven Cloyes, at which time, on January 27, 1992 Claimant gave Respondent Steven Cloyes a sell ticket for his own personal account to sell his 20,000 shares of American Aircraft Corporation ("AARC") at \$1.50 per share. Claimant further alleged that the next day, after learning that the trade was not done, Claimant confronted Respondent Steven Cloyes and without explanation Respondent Steven Cloyes informed Claimant that the trade would be done on January 28, 1992. Claimant contended that after not having the trade done on January 28, 1992, he tried calling the principals of Respondent Robert Todd Financial Corp. to bring the impropriety to their attention whereby they never returned his calls, at which time, the price of AARC was now starting to sell off rapidly and Claimant was having identical problems in selling AARC for his clients accounts. Claimant further contended that on February 4, 1992 he resigned from Respondent Robert Todd Financial Corp. and immediately re-registered with Gilford Securities whereby when his accounts were validated through ACATS transfer system, Claimant sold his 20,000 shares of AARC on February 19, 1992 at \$1.00 per share. Claimant asserted that Respondent Steven Cloyes' failure to execute and Respondent Robert Todd Financial Corp. failure to supervise Respondent Steven Cloyes, caused Claimant to sustain losses.

Respondents Robert Todd Financial Corp. and Steven Cloyes, by and through their counsel, Lance B. Babbit, Esq. of Gersten, Savage, Kaplowitz & Curtin, New York, NY,

maintained that after the close of trading on January 28, 1992 Claimant Steven G. Kashian approached Respondent Steven Cloyes with a sell order-ticket dated January 27, 1992 whereby Claimant made an improper request for Respondent Steven Cloyes to sell his 20,000 shares of AARC at \$1.50 per share when the price of AARC at that moment was actually \$1.34 per share and the price Claimant sought had been the closing price the day before, at which time, the price had dropped throughout the trading day of January 28, 1992. Respondents further maintained that Respondent Steven Cloyes refused Claimant's improper request and explained that a broker may not transact business on his own account at a customer's expense whereby if Respondent Steven Cloyes had granted Claimant's request, Respondent Robert Todd Financial Corp. would have had to match that sale with a customer who wanted to buy AARC but the customer would have had paid higher than market cost at that moment. Respondents contended that Claimant's failure to sell his AARC stock at its high of \$1.50 per share in January 1992 was not due to any wrongful conduct by Respondents and if Claimant wanted to sell his AARC stock on January 27, 1992, his stock would have been sold. Respondents further contended that it was only after the AARC price per share began to fall on January 28, 1992 that Claimant decided to try to obtain the previously higher price, a patently improper practice. Respondents asserted that Claimant did not present Respondent Steven Cloyes with a sell ticket on January 27, 1992 for 20,000 shares of his AARC stock nor for any customer accounts and there is absolutely no reason Claimant's sell order would not have been executed on January 27, 1992 if Claimant had presented Respondent Steven Cloyes with the order.

RELIEF REQUESTED

Claimant Steven G. Kashian requested \$10,000.00 in actual damages.

Respondents Robert Todd Financial Corp. and Steven Cloyes requested the claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Arnold O. Flicker, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 6, 1992 and by the Respondents on May 29, 1992.

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. The Respondents' Robert Todd Financial Corp. and Steven Cloyes request for a Hearing and Motion to Consolidate are hereby denied.

2. Respondents Robert Todd Financial Corp. and Steven Cloyes are liable and shall pay to the Claimant Steven G. Kashian the sum of \$3,200.00 in damages.
3. The parties shall bear their respective costs.
4. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Steven G. Kashian shall be retained by the NASD, Inc. Respondents Robert Todd Financial Corp. and Steven Cloyes are liable and shall pay to the Claimant the sum of \$575.00 as reimbursement.

AFFIRMATION

I, **ARNOLD O. FLICKER, 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

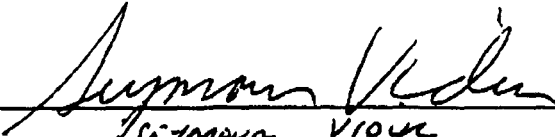
DATE OF DECISION: **December 2, 1992**

STATE OF: NEW YORK

SS:

COUNTY OF: QUEENS

On this 17 day of NOVEMBER 1992, before me personally appeared Arnold O. Flicker, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.


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