

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Jeno Kelety

92-02102

Name of Respondent

Robert Todd Financial Corp.

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**REPRESENTATION**

Claimant, Jeno Kelety, appeared without counsel.

For Respondent, Robert Todd Financial Corp. ("RTFC"), Edward Curtin, Esq., from the law firm of Gersten Savage Kaplowitz & Curtin.

**CASE INFORMATION**

Statement of Claim was filed on June 22, 1992.  
Claimant's Submission Agreement was signed on June 20, 1992.  
Amended Statement of Claim was filed on September 4, 1992.

Robert Todd Financial Corp.'s Statement of Answer was filed on July 23, 1992.  
Robert Todd Financial Corp.'s Submission Agreement was signed on July 20, 1992.  
Answer to Amended Statement of Claim was filed on October 7, 1992.

**HEARING INFORMATION**

Hearing Date/Hearing Sessions: April 8, 1993 - 2 sessions.

Hearing Location: National Association of Securities Dealers, Inc.'s offices located at 33 Whitehall Street in New York City, New York.

**CASE SUMMARY**

Claimant alleges that he was an unsophisticated investor who came in contact with RTFC through his accountant. Perry Smith, a broker at RTFC, recommended that Claimant invest

\$10,000.00 of his retirement funds in Southold Development Associates ("SDA"). Claimant alleges that he was told that an investment in SDA would provide an extraordinary rate of return and that he would recoup his investment in just a few years. Claimant alleges that a high degree of risk was associated with SDA. Claimant further alleges that he had no knowledge of what a limited partnership was. Claimant alleges that the General Partners of SDA are inexperienced, incompetent and dishonest and that it appears that principals of RTFC are also principals of SDA, which created a conflict in interest. Additionally, Claimant alleges that RTFC failed to exercise due diligence in connection with the SDA offering, failed to disclose material facts regarding the common control between RTFC and SDA and overstated or misrepresented SDA's investment return.

Respondent maintains that Claimant signed a Subscription Agreement to acquire his \$10,000.00 limited partnership in which he acknowledges receipt of a numbered copy of the Private Placement Memorandum, recognizes that the Partnership SDA involves a high degree of risk, represents that he has a net worth of at least \$50,000.00, represents that he had evaluated the risks of investing in SDA and represents that he had full access to all information and had the opportunity to ask questions of the General Partners regarding any aspect of the investment. Respondent maintains that the Private Placement Memorandum received by the Claimant disclosed the high risk factors, potential conflicts of interest and investor suitability standards.

#### **RELIEF REQUESTED**

Claimant requests an award of \$10,000.00 which represents the full investment made with RTFC in SDA.

Respondent requests that Claimant's claim be dismissed in its entirety and that Respondent be awarded the costs and disbursements of defending against same together with such other relief as is deemed just and proper.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD. Todd Spehler, a former principal of RTFC and 25% shareholder in SDA, entered an affidavit that was admitted into evidence at the hearing.

#### **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. Claimant is awarded \$5,000.00.
2. All costs of this proceeding are to be shared equally between Claimant and Respondent.

**FORUM FEES**

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

Non-refundable Filing Fee: \$75.00  
Hearing Session Fees: \$200.00 X 2 sessions = \$400.00

1. Claimant shall pay the NASD the sum of \$200.00 to be offset by the Hearing Session deposit already to the NASD.
2. Respondent shall pay the NASD the sum of \$200.00

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

**CONCURRING ARBITRATOR'S SIGNATURE**

  
Romeo J. Barros, Esq.

?Public or Industry Arbitrator

Date of Decision: September 10, 1993