

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

H. Richard Miller

93-00724

Name of Respondent

Kober Financial Corp.  
Joanne Grimm

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on February 26, 1993, Claimant H. Richard Miller, who appeared Pro Se, alleged that Respondent Kober Financial Corp., through its registered representative, Joanne Grimm, misrepresented RNDMU units consisting of two common shares and one warrant by stating the warrants would be good for a three year period, causing him to purchase 1,000 units, which he later sold at a loss and the warrants were called at no value. The Claimant also alleged that the Respondents also lied about prices of stocks and the value of his portfolio in addition to recommending BZS and misrepresenting the value of this investment. The Claimant contended that he has suffered damages due to the Respondents' wrongdoing, and therefore should be compensated for his loss.

Respondent Kober Financial Corp., through its representative, Peter N. Bowinski, maintained that the Claimant has provided no documentation to support his position, and that Respondent Joanne Grimm did not lie regarding the Claimant's holdings. The Respondent also maintained that the Claimant carefully watched the prices of his investment and determined when to make his sales. Respondent Kober Financial Corp. contended any loss suffered by the Claimant is due to his own decisions as to when to sell or not to sell, and therefore the case should be dismissed.

Respondent Joanne Grimm, who appeared Pro Se, maintained that at the end of 1991 she turned all of her accounts to another broker, due to a death in the family, and that although she does not remember the specific details of the accounts, she tried to be very careful and do a lot of research before making recommendations. The Respondent further maintained that she also made sure her clients were aware of the level of risk involved and never promised guaranteed results.

In Reply letters to the Answer of Respondent Kober Financial Corp. and the Answer of Respondent Joanne Grimm, the Claimant refuted the defenses of the Respondents and requested that the arbitrator find in his favor.

**RELIEF REQUESTED**

Claimant H. Richard Miller requested \$7,350.77 in actual damages.

Respondent Kober Financial Corp. requested that the claims of the Claimant be dismissed.

Respondent Joanne Grimm denied any wrongdoing.

**OTHER ISSUES CONSIDERED & DECIDED**

The Motion to Bar the Answer of Respondents Kober Financial Corp. and Joanne Grimm is denied.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James B. Eichberg, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 1, 1992, but not signed by Respondents Kober Financial Corp. and Joanne Grimm. Respondents are required to submit to Arbitration pursuant to 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. The claims of the Claimant H. Richard Miller against Respondents Kober Financial Corp. and Joanne Grimm are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **JAMES B. EICHBERG**, 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: June 1, 1994