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**NASD REGULATION, INC.
OFFICE OF DISPUTE RESOLUTION
ARBITRATION AWARD**

NASD REGULATION, INC. OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Randell B. Hill

v.

Name of Respondents

T.R. Winston & Co., Inc., and Jeff Kahn

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**NASD
ARBITRATION**

NASD Regulation, Inc.
Office of Dispute Resolution
Arbitration No. 95-04921

REPRESENTATION

For Claimant:

H. Thomas Fehn, Esq.
Fields, Fehn & Sherwin
Los Angeles, California

For Respondent Jeffrey Kahn:

Sheldon M. Jaffe, Esq.
Law Offices of Sheldon M. Jaffe
Los Angeles, California

For Respondent T.R. Winston:

Stephen L. Ratner, Esq.
Rosenman & Colin LLP
New York, New York

CASE INFORMATION

Statement of Claim filed:

October 16, 1995

Claimant's Submission Agreement signed:

September 6, 1995

Statement of Answer filed by Respondent
Jeffrey Kahn:

December 18, 1995

Statement of Answer filed by Respondent
T.R. Winston & Co., Inc.:

December 19, 1995

Respondent Jeffrey Kahn's
Submission Agreement signed:

November 13, 1995

Respondent T.R. Winston & Co., Inc.'s
Submission Agreement signed:

December 15, 1995

HEARING INFORMATION

Pre-Hearing Conference Dates / Sessions:

November 14, 1996 (1 Session)

January 13, 1997 (1 Session)

January 17, 1997 (1 Session)

Hearing Dates / Sessions:

February 10, 1997 (2 Sessions)

February 11, 1997 (2 Sessions)

February 12, 1997 (3 Sessions)

Hearing Location:

Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondents Kahn and T.R. Winston & Co., Inc. selected unsuitable investments and breached their fiduciary duty to Claimant. Claimant also alleged that Respondent failed to follow the NASD Rules of Fair Practice.

Respondents denied the allegations of wrongdoing found in the Claimant's Statement of Claim.

Respondent Kahn cross-claimed and alleged that Claimant Hill induced him to purchase an interest in an oil and gas venture. Respondent further alleged that Claimant Hill made negligent or reckless representations to Kahn about the oil and gas venture. Respondent further alleged that the securities were not qualified under the California Corporate Securities Act of 1968.

RELIEF REQUESTED

Claimant requested compensatory damages of \$300,000.00 plus interest. Claimant further requested punitive and exemplary damages. Claimant also requested reimbursement of expert witness fees, attorney's fees and arbitration costs.

Respondent T.R. Winston Co., Inc., requested dismissal of the claim, costs, and expenses.

Respondent Kahn requested dismissal of the claim, costs, and expenses. In his cross-claim against Claimant Hill, Respondent Kahn requested \$18,000.00 in compensatory damages plus interest. Respondent Kahn further requested that any recovery by Claimant be offset against the sum of \$18,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing on the merits, the Arbitration Panel entertained Claimant's Motion to Dismiss Respondent and Cross-claimant Kahn's cross-claim. Having considered the oral and written submissions of the parties, the arbitration Panel dismissed Kahn's Cross-claim without prejudice.

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD Regulation, Inc. Office of Dispute Resolution.

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 the sum of \$35,000.00 from Respondents T.R. Winston & Co. Inc. and Jeff Kahn, jointly and severally.
2. Pursuant to the motion of Claimant Hill, Respondent Kahn's cross-claim is dismissed, without prejudice, on the grounds that the cross claim is not arbitrable pursuant to the provisions of the NASD Code of Arbitration Procedure.
3. The parties shall each bear their respective costs, including attorney's fees.

DISSENT

The Chairperson dissents from the Award to the extent that the Award determines that Respondents were liable to Claimant and that Claimant suffered damages as a result of their liability. The Chair would find that Respondents had no liability to Claimant for their actions.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

1 One-Panel Member Pre-Hearing Conference @ \$300.00/Session	=	\$ 300.00
2 Full Panel Pre-Hearing Conferences @ \$750.00/Session	=	\$1,500.00
<u>7 Hearing Sessions @ \$750.00/Session</u>	<u>=</u>	<u>\$5,250.00</u>
Total Fees Assessed	=	\$7,050.00
 Claimant's One-Half Share	=	\$3,525.00
<u>Credit for Hearing Session Deposit</u>	<u>=</u>	<u>\$ 750.00</u>
Claimant's Balance Due	=	\$2,775.00
 <u>Respondents' Joint and Several One-Half Share</u>	<u>=</u>	<u>\$3,525.00</u>
Respondents' Balance Due	=	\$3,525.00

Fees are payable to NASD Regulation, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Herbert M. Schoenberg, Esq.	Public Arbitrator
Alvin B. Asher	Industry Arbitrator
Thornton V. Allen, Jr.	Public Arbitrator

Concurring Arbitrators' Signatures

Alvin B. Asher
Alvin B. Asher

Thornton V. Allen, Jr.

Dissenting Arbitrator's Signature

Herbert M. Schoenberg, Esq.

Date of Decision: 2-12-97

Date of Service: 3-28-97

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Herbert M. Schoenberg, Esq.	Public Arbitrator
Alvin B. Asher	Industry Arbitrator
Thornton V. Allen, Jr.	Public Arbitrator

Concurring Arbitrators' Signatures

Alvin B. Asher

Thornton V. Allen, Jr.
Thornton V. Allen, Jr.

Dissenting Arbitrator's Signature

Herbert M. Schoenberg, Esq.

Date of Decision: _____

Date of Service: _____

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<u>Name</u>	<u>Public / Industry</u>
Herbert M. Schoenberg, Esq.	Public Arbitrator
Alvin B. Asher	Industry Arbitrator
Thornton V. Allen, Jr.	Public Arbitrator

Concurring Arbitrators' Signatures

Alvin B. Asher

Thornton V. Allen, Jr.

Dissenting Arbitrator's Signature



Herbert M. Schoenberg, Esq.

Date of Decision: _____

Date of Service: _____