

IN THE ARBITRATION BEFORE
NASD DISPUTE RESOLUTION, INC.

KIRKPATRICK, PETTIS, SMITH,
POLIAN INC.,

Claimant,

v.

RICHARD C. HILL, JR.,

Respondent.

NASD Case No.: 01-02819

CONSENT AWARD

REPRESENTATION OF PARTIES

Claimant was represented by:

James M. Bausch
Cline, Williams, Wright, Johnson
& Oldfather, L.L.P.
1900 First Bank Building
233 South 13th Street
Lincoln, Nebraska 68508

Respondent was represented by:

S. Scott Lasher
Brega & Winters P.C.
1700 Lincoln Street, Suite 2222
Denver, Colorado 80203

CASE INFORMATION

Statement of Claim Filed on or about: May 26, 2001

Claimant's Submission Agreement
signed and filed on or about: May 26, 2001

Answer filed by Respondent

on or about:

July 20, 2001

Respondent's Submission Agreement
signed and filed on or about:

July 20, 2001

CASE SUMMARY

Claimant, Kirkpatrick, Pettis, Smith, Polian Inc., alleged nonpayment of a loan made to Richard C. Hill, Jr. having an unpaid principal balance of \$49,632.70 as of May 25, 2001. Claimant sought an award of \$52,302.60 plus interest totaling \$14.61 per day from and after March 25, 2001, together with attorneys' fees and costs as provided for in the Note.

Respondent denied liability on the Note claiming that his obligation on the Note was discharged because Claimant substantially frustrated Respondent's principal purpose for executing the Note.

RELIEF REQUESTED

The parties have entered into a certain Settlement Agreement dated December 5, 2001 with respect to this matter and have agreed to enter an award by consent. The Respondent waived any right to a hearing.

Claimant and Respondent request that an award be entered by the arbitration panel in favor of Claimant and against Respondent which incorporates the parties' Settlement Agreement dated December 6, 2001.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in 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(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

The parties have entered into the Settlement Agreement and as a part of that Agreement, the parties have consented, among other things, to the following monetary award:

Respondent, Richard C. Hill, Jr., is liable and shall pay to Claimant, Kirkpatrick, Pettis, Smith, Polian Inc., the sum of \$36,000.00, in 24 equal monthly payments, without interest, beginning February 1, 2002; or a lump sum payment of \$30,000.00 if paid on or before February 1, 2002.

This Award will, pursuant to the agreement of the parties, be deemed to have been made in Nebraska.

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FORUM FEES

Pursuant to the applicable provisions of the Code of Arbitration Procedure, the NASD shall retain the nonrefundable filing fee of \$1,000.00, the \$1,000.00 member surcharge, the hearing session deposit in the sum of \$750.00, and the \$600.00 pre-hearing processing fee.

ARBITRATION PANEL

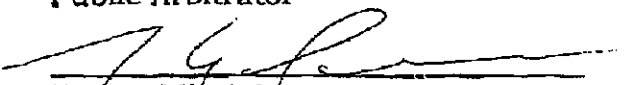
Concurring Arbitrators:

Public Arbitrator, Presiding Chair

(Date)

Public Arbitrator

(Date)



Non-public Arbitrator

2/22/02

(Date)

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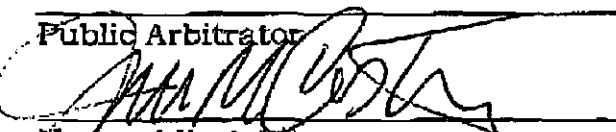
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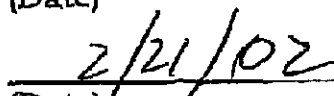
Public Arbitrator

(Date)

Non-public Arbitrator

(Date)


Joseph M. Costello


2/21/02