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9604-082  
N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

© National Association of  
Securities Dealers, Inc.

Name of Claimant(s)

Richard V. and Margaret B. Colliflower

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95-04475

Name of Respondent(s)

Ephram Pollack  
Richard V. Singer  
Hillcrest Financial Corp.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 20, 1995, Claimants Richard V. and Margaret B. Colliflower, who appeared Pro Se, alleged that Respondent Hillcrest Financial Corp., through its registered representative, Richard V. Singer, mishandled their account when an error was made and they received a Regulation T Notification dated January 30, 1995. The Claimants contended that the notice informed them that 700 shares of Artagraph Reproduction stock was purchased in their account for which they owed funds to cover the trade. The Claimants also contended no purchases were discussed since the last purchase of XAROF stock on December 21, 1994, and further contended that when they tried to contact Respondent, they were unsuccessful. The Claimants asserted that they were finally referred to Respondent Ephram Pollack, who failed to take any action to resolve this problem concerning the unauthorized trade. The Claimants alleged that due to the wrongdoing of the Respondents, they have suffered damages for which the Respondents should be held liable.

Respondents Hillcrest Financial Corp. and Richard V. Singer, through their representative and counsel, Michael Present, Esq., of Sexter & Warmflash, New York, NY, maintained that they have no basis to believe that the purchases of securities complained of by Claimants were not properly authorized by Claimants, and further that the firm's policies and practices strictly prohibit its employee's from engaging in any transaction without the express prior consent of its customers. Respondents contended that if Respondent Singer purchased securities without Claimants' prior consent, then such actions were engaged in by him alone, in direct contravention to the policies and practices of Hillcrest.

In a cross-claim filed by Hillcrest Financial Corp. and Ephram Pollack, they alleged that they should be indemnified by Respondent Richard Singer if found liable, on the basis of apportionment of responsibility.

Respondent Richard V. Singer failed to file an Answer to the Statement of Claim and Cross-Claim.

RELIEF REQUESTED

Claimants Richard V. and Margaret B. Colliflower requested \$3,660.15 in actual damages.

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Respondents Hillcrest Financial Corp. and Ephram Pollack requested that the claims of the Claimants be dismissed, or if found liable, that Respondent Richard V. Singer indemnify them for the liability as requested in the cross-claim.

Respondent Richard V. Singer failed to file an Answer to the Statement of Claim.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Richard V. Singer was served by regular mail and given an opportunity to respond which he failed to do. In addition, service of the Arbitrator's identity notification was effected as evidence by the return receipt card on file at the NASD.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Richard V. Singer had notice of the Claim and was required to submit to this arbitration proceeding, and is therefore, bound by the arbitrator's ruling and determination.

#### **AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William H. Malloy, Jr., Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on September 14, 1995 and by Respondent Ephram Pollack on October 12, 1995, but not by Respondents Hillcrest Financial Corp. or Richard V. Singer as required by Sections 12 and 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. Respondents Hillcrest Financial Corp., Ephram Pollack and Richard V. Singer are jointly and severally liable and shall pay to Claimants Richard V. and Margaret B. Colliflower \$1,239.95 in actual damages.
2. Respondents Hillcrest Financial Corp., Ephram Pollack and Richard V. Singer are jointly and severally liable and shall to the Claimants simple interest at the rate of 7% per annum from February 14, 1995 until the date of payment.
3. The cross-claim of Hillcrest Financial Corp. and Ephram Pollack against Respondent Richard V. Singer are dismissed in their entirety.
4. The parties shall bear their respective costs.
5. 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. Respondents Hillcrest Financial Corp., Ephram Pollack and Richard V. Singer are jointly and severally liable and shall pay \$150.00 to the Claimants as reimbursement of the filing fee.

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**AFFIRMATION**

STATE OF

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ss:

COUNTY OF

I, William H. Halliday 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.

William H. Halliday  
Signature of Arbitrator

DATE OF DECISION: May 30, 1996