

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

David E. & Barbara K. Puthoff

96-04256

Name of Respondents

Maidstone Financial Inc.
Hillcrest Financial Corp.
George Carlo

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on September 24, 1996, claimants David and Barbara Puthoff ("claimants"), who appeared Pro Se, alleged that respondents Maidstone Financial, Inc. ("Maidstone"), Hillcrest Financial Corporation ("Hillcrest") and George Carlo ("Carlo") failed to disclose significant information regarding some of their investments. Claimants further alleged that in February 1996 Mr. Puthoff received a call from Carlo regarding opportunities to invest in the market. Claimants also alleged that Carlo stated that he would advise him as to when to purchase and sell stocks. Claimants asserted that on February 2, 1996, based on Carlo's recommendation, Mr. Puthoff opened a joint account and purchased 200 shares of New World Communication ("NWC") at 16 3/8.

Claimants further asserted that in early March 1996, Carlo called Mr. Puthoff regarding the purchase of Sims Communications, Inc. ("SIMS"). Claimants also asserted that Carlo stressed that timing was important in order to make money, so they purchased 1000 shares of SIMS at 5 7/8. Claimants contended that Carlo had no reasonable grounds for believing that this recommendation was suitable for their investment objectives of growth with conservative risks.

Claimants further contended that Carlo failed to provide them with basic information typically provided in an Annual Report or a list of principal stockholders. Claimants also contended that Carlo failed to keep them informed of the declining price of SIMS. Claimants alleged that in the last week of June 1995, Mr. Puthoff discovered SIMS declining price and called Carlo, who told him that SIMS price was declining due to aggressive traders and that he should not worry and to keep holding on to the shares.

Claimants further alleged that by late August 1996 he transferred his account to another firm, because Carlo neglected to provide the guidance he promised. Claimants also alleged that Maidstone did not have the years and years of market experience that Carlo represented them to have. Claimant asserted that Hillcrest may be guilty of manipulating SIMS stock price.

Respondents Maidstone Financial, Inc. and Carlo (collectively referred as "respondents") through their representative and in-house counsel, Debra M. Snyder maintained that claimant's financial data, which was communicated to Carlo, illustrated that their investment objectives were to purchase stocks of a speculative nature. Respondents further maintained that Carlo was led to believe that SIMS was a suitable investment for claimants after analyzing their annual income, estimated net worth, liquid net worth and their desire for speculative investments. Respondents also maintained that they did send claimants a prospectus on SIMS with their trade confirmation. Respondents contended that claimants did not reserve the right to dispute the sale of SIMS just because they were negligent in failing to read and analyze the company that they were investing in until the stock traded down. Respondents further contended that Carlo did not guarantee the success of the stock or promise that claimants would realize a profit. Respondents also contended that claimant's claim of unsuitability is a poorly orchestrated attempt to recoup their losses.

Respondent Hillcrest Financial Corp. through its representative and counsel, Michael Present, Esq. of the law firm Sexter & Warmflash, P.C. located New York City, New York maintained that they are not and never have been a market maker for SIMS. Respondent Hillcrest further maintained that claimants are not now and have never been customers of Hillcrest. Respondent Hillcrest also maintained that claimants Statement of Claim makes no specific allegation of wrongdoing against it.

RELIEF REQUESTED

Claimants David and Barbara Puthoff requested (1) \$5,875.00 as reimbursement for the difference between the original purchase price and today's price; (2) lost interest of 6% for 20 months; (3) \$150.00 as reimbursement for the brokers commissions they paid.

Respondents Maidstone Financial, Inc. and George Carlo requested that the claims of claimant be dismissed in their entirety, plus costs for defending this arbitration.

Respondent Hillcrest Financial Corp. requested that the claims of claimant be dismissed in their entirety, plus costs for defending this arbitration.

AWARD

Pursuant to Section 10302 of the NASD Code of Arbitration Procedure, a single Public Arbitrator, Kevin R. McDermott, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimants David and Barbara Puthoff on September 20, 1996 and by respondents Maidstone Financial, Inc. on November 4, 1996 and Hillcrest Financial Corporation on October 22, 1996 and George Carlo on November 4, 1996 as required by Sections 10301 and 10302 of the Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full an and final resolution of the issues submitted for determination as follows:

1. Respondents Maidstone Financial, Inc. and George Carlo be and hereby are jointly and severally liable and shall pay claimants David Puthoff and Barbara Puthoff the sum of \$5,687.00 in actual damages.

2. The claims of claimant David and Barbara Puthoff against Hillcrest Financial Corporation are dismissed in their entirety,
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by claimants shall be retained by NASD Regulation, Inc. Respondents Maidstone Financial, Inc. and George Carlo be and hereby are jointly and severally liable and shall pay claimants David Puthoff and Barbara Puthoff the sum of \$150.00 as reimbursement for the filing fee.

AFFIRMATION

I, Kevin R. McDermott, Esq., 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.



Kevin R. McDermott, Esq.

Date of Decision: February 11, 1997