

Both sides have now submitted final statements. Accordingly, the record as made by the parties – consisting of the complaint, the answer, complainant’s minimal discovery responses and the adverse inferences based thereon, and the parties’ respective verified statements – is complete and the case is ready for decision.

Upon careful consideration of the record, it is concluded that complainant has failed to prove that any violations of the Act occurred, or if they did, that such violations proximately caused any damages. Therefore, the complaint is DISMISSED.

Respondents submitted, as ordered, their attorney’s bill of costs associated with filing the motion to compel (Attachment D to Respondents’ Verified Statement). That document, attached to its verified statement, states that in fact no attorney time was billed to respondents for preparing and filing the motion (*id.* at ¶ 2). Copying and mailing costs were incurred in the amount of \$12.98 (*id.* at ¶ 3). Therefore, an award is made to respondents for that amount.¹

Reparation Award

Based upon the prior determination that complainant without substantial justification necessitated the filing by respondents of a motion to compel, complainant IS ORDERED to pay costs to respondents in the amount of \$12.98.²

Dated: October 23, 2000


JOEL R. MAILLIE
Judgment Officer

¹ Respondents’ attorney included with the Bill of Costs an itemization of charges assessed respondents “for other time associated with the motion,” this being one quarter-hour spent drafting a letter to complainant reminding him of the need to answer discovery, and one quarter-hour spent reviewing the Order granting the motion (*id.* at ¶ 2). Although counsel’s attempt to secure complainant’s compliance with discovery without the need for a motion to compel is appreciated, the Rule does not authorize assessment of costs for informal reminders provided to the opposing side. Nor does the Rule authorize assessment of costs for time spent reading the court order granting a party’s motion to compel. Accordingly, the request for fees beyond those specified in the Order in the text is DENIED.

² As provided in Rule 12.106(e), payment of the reparation award must be made within 45 days following service of this Final Order by the Proceedings Clerk, unless the Commission takes review of the case or otherwise suspends the duty of satisfaction. Failure to satisfy the award will result in prohibition of the non-paying party’s right to trade on all contract markets. *See* Rule 12.407(c).