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STEPHEN T. WISNIEWSKI, Complainant v. BROCK INVESTOR SERVICES, INC., RICHARD A. BROCK & ASSOCIATES, INC. (d/b/a "BROCK ASSOCIATES"), ALEIT ELISABETH RICHTER, and SAUL STONE & COMPANY, L.L.C., Respondents	CFTC Docket No. 00-R102

FINAL DECISION

Complainant initiated this reparations case selecting a voluntary decisional proceeding, a choice concurred in by the respondents. In a voluntary proceeding, the parties submit their dispute on the papers only, waiving their right to present oral testimony. In addition, the judge is not authorized to conduct discovery on his own motion (see Rule 12.34), leaving the parties solely responsible for the development of the record. When the record is closed, the judge issues a Final Decision containing only a conclusion whether any violations of the Commodity Exchange Act have been proven, and, if so, a reparation award for any damages caused by such violations (see Rule 12.106(b)). The decision does not contain findings of fact or other evidentiary evaluations by the judge. The Final Decision is not appealable to the Commission or to any court.

The complaint contends that respondent Richter's unsolicited advice resulted in his liquidation of calls on corn futures contracts prior to what turned out to be a major price upswing. According to complainant, he relied on this advice because Richter had previously been very successful at predicting market movements. He contends that the advice was given in bad faith and that Richter should have been able to give him a better indication of what the market would do. Respondents contend that the advice given by Richter was provided after careful evaluation of the markets, that it mirrored advice given to their other clients, and that the advice proved wise because the upward price movement leading to this complaint was a short-term spike followed by falling prices in these options until they expired.

Neither side took discovery. Likewise, no party submitted final verified statements, which means the case must be decided solely on the basis of the complaint, the addendum to the complaint, and the answers filed by the respondents.

Upon careful consideration of the thus record made by the parties, it is concluded that complainant has failed to prove that any violations of the Act were committed by respondents. Therefore, the complaint is DISMISSED.

Dated: February 13, 2001

Joel R. Maillie

JOEL R. MAILLIE
Judgment Officer