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U.S. COMMODITY FUTURES TRADING COMMISSION

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THICE OF PROCEEDINGS
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YUNG CHEN CHANG,
Complainant

v.

V.

CFTC Docket
No. 98-R169

LFG, L.L.C., and
WINTECH RESEARCH, INC.,
Respondents

)

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 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 either to the Commission or to any U.S. Court of Appeals (see Rule 12.106(d)). In this matter, the parties failed to avail themselves of the opportunity to take discovery. Both sides submitted verified statements.

Upon careful consideration of the record made by the parties, it is concluded that complainant has established that respondent Wintech Research, Inc., an introducing broker guaranteed by respondent LFG, L.L.C., while acting on behalf of LFG, L.L.C., distributed documents falsely denying the guaranteed status of Wintech and falsely misrepresenting LFG's status as guarantor. These actions by Wintech violated, among other provisions, Commodity Exchange Act section 4b(a)(iii), which prohibits deceiving or attempting to deceive any person in connection with an order to make a futures contract regarding the execution of such order "or any act of agency performed with respect to such order or contract for such person." Furthermore, because Wintech was also registered as a Commodity Trading Advisor, Wintech's distribution of documents falsely denying its guaranteed status and misrepresenting LFG's status as guarantor also violated Section 40 of the Act, which generally prohibits fraud by commodity trading advisors.

It is further concluded that respondent LFG, L.L.C., by distributing false documents through its guaranteed introducing broker Wintech, itself directly violated Section 4b(a)(iii) of the Act, as well as being liable for Wintech's violations under that Section and Section 4o both by having aided and abetted those violations and by operation of the guaranteed status of Wintech.

In all other respects, complainant has not proven any violations of the Act and has not proven that any falsehoods spoken to him by non-registered third parties were made with the knowledge or approval of Wintech personnel.

Violations having been found, it remains to be determined whether any damages have been proven to have been proximately caused by the violations established by complainant. Upon careful review of the record, it is determined that complainant has failed to establish that the misrepresentations and deceptions in respondents' fraudulent account-opening documents about Wintech's and LFG's guarantee arrangement led to any of the losses suffered by complainant.

Accordingly, although complainant has succeeded in proving violations by respondents, nevertheless the complaint is DISMISSED for failure to connect his damages to the violations.

JOEL R. MAILLIE

Dated: December 22, 1998

2