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GENE GONZALEZ, Complainant, v. RB&H FINANCIAL SERVICES LP, MOEEZ ANSARI d/b/a COMPAK TRADING COMPANY, and JOSEPH MARK URIAS, Respondents.	CFTC Docket Number 96-R012

INITIAL DECISION

Gonzalez seeks to recover $3,500 that he claims he lost as the result of questionable trading advice from Urias and Compak.

Gonzalez is a postal clerk residing in City of Industry, California. Before opening his account with Compak, Gonzalez had no previous commodity trading experience and had no other significant investment experience.

Gonzalez decided to open the Compak account after listening to several installments of the "Money Radio" show, where show host Buz Schwartz regularly interviewed Moeez "Moe" Ansari. Gonzalez signed the various account-opening documents, including the standard risk disclosure statements, and deposited $5,000. Gonzalez was aware that "commodities are very volatile and you run the risk of losing all your money." [Page one of June 16, 1994 letter from Gene Gonzalez to Buzz Schwartz, exhibit to complaint.]

On mid-June of 1994, Compak was recommending the purchase of call options in the grains based on reports from the U.S. Department of Agriculture and the Chicago Board of Trade which indicated an imbalance in favor of demand over supply. [*See* Ansari's and Urias' verified statements.] On Friday, June 17, 1994, Gonzalez accepted Urias' and Compak's recommendation to buy one November soybean call option with a 750 strike price ("750 corn call"). On Monday June 20, the 750 corn call went limit down. Gonzalez accepted Urias' advice to hold the 750 call because the volatility was not unusual. Gonzalez also accepted Urias' and Compak's recommendation to buy two December corn calls. The aggregate purchase cost for the Soybean call and the corn calls was $3,793. Gonzalez paid a total of $243 in commissions and fees.

Between June 20 and July 5, Gonzalez monitored the Weather Channel and became concerned that the strategy recommended by respondents would not work. Respondents disagreed when Gonzalez asked if he should go short a soybean contract. On July 5, Gonzalez called respondents and directed that the soybean and corn calls be liquidated. Gonzalez lost about $3,500 on these trades. Gonzalez continued to trade with respondents afterwards.

Gonzalez claims that respondents' advice on June 17 and 20, 1994 was "bogus" because the market was limit-up on June 17, and because they should have recommended only "one trade at a time." However, the Commission has consistently held that it will not award reparations merely because the trading strategy chosen by a broker turns out unsuccessful, or because other available strategies would have been profitable, absent evidence of bad faith. *Vetrano v. Manglapus*, [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶22,702 (CFTC 1985). This is based on a policy not to second-guess trading decisions so long as they are made with a reasonable basis. Here, respondents have shown a reasonable basis for their trading advice, which has not been contradicted either by Gonzalez's mere assertions or the fact that the disputed trades were unprofitable.

No violations causing damages having been shown, the complaint in this matter is DISMISSED.

Dated June 17, 1997,

Philip V. McGuire,
Judgment Officer