## A DIAC COM

## U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581

RECEIVED

1999 AUG 31 A 10: 15

PROCEEDINGS CLERK

OFFICE OF	
PROCEEDINGS	

FRANCIS E. HORRIGAN,	) )
Complainar	) )
<b>v.</b>	) CFTC Docket ) No. 99-R078
LFG, L.L.C., (d/b/a "Linnco Futur Group"),	es )
Respondent	)
	<u></u>

## **FINAL DECISION**

Complainant initiated this reparations case selecting a voluntary decisional proceeding, a choice concurred in by the respondent. 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. The complainant submitted a verified statement. The respondent did not, nor did the respondent ever respond to the serious allegations contained in the affidavit of complainant's attorney (acting solely as a witness in this proceeding) included with complainant's reply to respondent's counterclaim.

Upon careful consideration of the record made by the parties, it is concluded that complainant has established that respondent LFG, L.L.C., engaged in unauthorized trading of complainant's account in violation of, among other provisions, Commodity Exchange Act section 4d. A reparation award follows in the amount established as complainant's damages in the exhibits attached to the complaint.

<sup>&</sup>lt;sup>1</sup> Complainant has acted *pro se* throughout this proceeding. The affidavit submitted by complainant's witness, an attorney he previously engaged to help him in attempting to resolve his dispute with LFG, was, as noted above, never addressed by respondent. That unrebutted and detailed affidavit raises substantial questions regarding LFG's candor with complainant and his attorney from the beginning, and its representations to this forum as well.

Respondent LFG, L.L.C., is ORDERED to pay reparations to complainant in the amount of \$6,900, plus \$50 in costs as complainant's filing fee.

The counterclaim filed by respondent LFG, L.L.C., is DISMISSED in all respects.

Dated: August 31, 1999

Joel R. Maille JOEL R. MAILLIE Judgment Officer