



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, N.W., Washington, DC 20581

Office of Proceedings

DOUGLAS KIRBY,
Complainant

v.

AMERICAN NATIONAL TRADING CORP.,
Respondent

CFTC Docket
No. 02-R022

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OFFICE OF PROCEEDINGS
WASHINGTON, D.C.

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 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.

In this matter, neither side took discovery, nor did either side submit verified final statements. The complainant alleges that he is entitled to a fill of a buy order that he placed through respondent's electronic order system. Respondent alleges that complainant's order had to be retransmitted and that his price was not "hit" thereafter.

On this record, it is determined that complainant has not carried his burden of demonstrating by a preponderance of the evidence that the failure to execute this order involved any violations of the Commodity Exchange Act or the Commission's regulations. Therefore, the complaint is DISMISSED.

Dated: July 30, 2002

Joel R. Maillie
JOEL R. MAILLIE
Judgment Officer