



U.S. COMMODITY FUTURES TRADING COMMISSION

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

OFFICE OF
PROCEEDINGS

ALFRED LABIB and
MERVET RINEHART,
Complainants

v.

LIT DIVISION OF FIRST OPTIONS d/b/a
FIRST OPTIONS OF CHICAGO, INC.,
and CHRISTINE PALLADINO,
Respondents

CFTC Docket
No. 98-R089

OFFICE OF PROCEEDINGS

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FINAL DECISION

Complainants filed their reparations complaint alleging a fraudulent fill of their order by floor broker Palladino. They selected 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 or to file verified statements. Moreover, the complainants -- who have the burden of proof -- have not rebutted or otherwise responded to the Answer's allegations that the trading was done in full compliance with applicable exchange rules. As noted above, the type of proceeding chosen by complainants does not allow the judge to conduct a *sua sponte* inquiry into matters left unexplained or unexplored by either side. Upon careful consideration of the record, it is concluded that complainants have failed to establish any violative conduct on the part of respondents leading to any losses suffered by complainants. Accordingly, the complaint is DISMISSED.

Dated: September 3, 1998

Joel R. Maillie
JOEL R. MAILLIE
Judgment Officer