

UNITED STATES OF AMERICA
before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:

SHAHROKH NIKKHAH,

95-13

Respondent.

INITIAL DECISION ON REMAND

On April 11, 2003 the Commission remanded this matter to allow the Division of Enforcement a fair opportunity to develop a record of Respondent's current financial status for the purpose of determining whether the Commission's proposed civil monetary penalty of \$200,000 should be imposed. The Administrative Law Judge directed the parties to initiate discovery on or before September 30, 2003. The hearing was scheduled for November 17, 2003. The Division subsequently moved for the imposition of adverse inferences based on Respondent's alleged failure to comply with discovery obligations. That motion was denied.

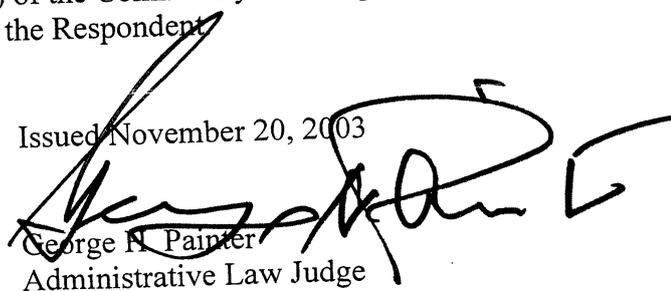
The hearing on this matter took place at 10:00 a.m. November 17, 2003. The Division of Enforcement offered no new evidence for the record. However, it requested that the entire evidentiary record be considered as a part of the record. That request was granted. Counsel for Respondent offered in evidence exhibit R-1, which was admitted in evidence over the objections of the Division. This exhibit suggests that Respondent was delinquent in paying rent on the flat he occupied prior to January 22, 2003, and that in November 2003 Respondent was endeavoring to satisfy a substantial debt owed to one Michel Cartillier. This court finds that Exhibit R-1 is a reliable indicator of Respondent's current financial circumstances.

Counsel for the parties waived the right to file post-trial briefs. This matter is ready for decision.

ORDER

The evidentiary record in this matter fails to show that complainant has a current positive net worth. Pursuant to former section 6(d) of the Commodity Exchange Act a civil monetary penalty may not be imposed against the Respondent.

Issued November 20, 2003


George N. Painter

Administrative Law Judge

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