

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

HUI DONG and HSUE TUNG

v.

CONCORDE TRADING GROUP, INC.  
and GEORGE ANTHONY LEDO

CFTC Docket No. 01-R08

ORDER PURSUANT TO  
DELEGATED AUTHORITY

OFFICE OF PROCEEDINGS  
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On February 6, 2007, prevailing reparations complainant Hsue Tung (“Tung”) wrote a letter to the Director of the Office of Proceedings to “clarify” that his filing fees (\$125 to file his complaint and \$50 to file the appeal that resulted in the remand) should be added to his award and requesting a “minimum” award of attorney’s fees as “fair practice.” Tung’s letter is properly treated as a notice of appeal, in that he seeks forms of relief make-whole relief requested and denied below.<sup>1</sup> His appeal is dismissed as untimely.

The Judgment Officer’s initial decision on remand found that respondents George Anthony Ledo (“Ledo”) and Concorde Trading Group, Inc. (“Concorde”) fraudulently withheld material trading information from Tung. The Judgment Officer ordered them to pay Tung \$3,390 plus prejudgment interest and denied “[a]ll other claims presented by Mr. Tung.” *Dong and Tung v. Concorde Trading Group and Ledo*, 2006 WL 2786996 (Sept. 27, 2006).

Tung requested filing fees and attorney’s fees in his original complaint filed July 11, 2001. The request was preserved in Tung’s appeal from the first initial decision before remand. *Dong and Tung v. Concorde Trading Group and Ledo*, [2003-2004 Transfer Binder] Comm. Fut.

<sup>1</sup> *Camp v. First National Monetary Corporation*, [1986-1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,190 at 32,505 (CFTC July 24, 1986) (the goal in a reparations proceeding is to make the injured party whole).

L. Rep. (CCH) ¶ 29,485 (CFTC May 8, 2003).<sup>2</sup> Although the award of filing fees is permissive, *see* Commission Rule 12.210(c), as a general rule the Commission's presiding officers award filing fees to prevailing complainants. The record reveals no apparent reason for the Judgment Officer to depart from that practice in this case. Attorney fees may be awarded upon a finding of bad faith or vexatious conduct by a party.<sup>3</sup> *Lee v. Peregrine*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,131 (CFTC Sept. 7, 2005) *citing* *Sherwood v. Madda Trading Co.*, [1977-1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,728 at 23,023 n.26 (CFTC Jan. 5, 1979).

Nevertheless, the merits of Tung's requests are beyond reach. Under Commission Rule 12.401(a) and (b), a notice of appeal must be filed within 15 days of the date of the initial decision and the appeal must be perfected within 30 days by filing a brief. Tung did not file his appeal letter until February 2007, more than four months after issuance of the initial decision, without explanation for the delay.<sup>4</sup> Accordingly, Tung's appeal is dismissed as timely.

IT IS SO ORDERED.<sup>5</sup>

  
Laura M. Richards  
Deputy General Counsel  
Commodity Futures Trading Commission

Dated: June 26, 2007

<sup>2</sup> Tung's letter states no amount. An earlier pleading asked \$500 in fees.

<sup>3</sup> In its Order of Remand the Commission found that during the discovery period, Concorde and Ledo sought extensive irrelevant discovery from Tung and his co-complainant Hui Dong (Dong later withdrew), including their high school diplomas. *Dong and Tung v. Concorde Trading Group and Ledo*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,144 at 57,577 n.4 (CFTC Oct. 14, 2005).

<sup>4</sup> The Commission's Office of Proceedings served Tung's letter on Ledo on March 20, 2007 and afforded him 30 days to respond. Ledo, who participated in the hearing on remand, filed no response. Concorde has not participated in this proceeding since its counsel filed a motion to withdraw in April 2002. Neither respondent has satisfied the reparations award. Therefore, both have been placed on the Reparations Sanctions in Effect List.

<sup>5</sup> By the Commission pursuant to delegated authority, 17 C.F.R. § 12.408(a)(4). Within seven days after service of this order, a party may file with the Commission a petition for reconsideration of this ruling. *Id.* at § 12.408(c).