

**IN ARBITRATION
UNDER CHAPTER XVIII OF THE RULES
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

In The Matter Of)	
)	
Patrick J. Burke,)	
)	
Claimant,)	DECISION
)	
v.)	File No. 00M005
)	
JOH Options Inc.,)	
)	
Respondent.)	
)	

Representation

For Claimant:	David J. Barclay, Chicago, Illinois
For Respondent:	Ronald P. Kane, Kane & Fischer Ltd., Chicago, Illinois

Pleadings

Statement of Claim and Submission Agreement, filed on or about:	July 27, 2000
Answer, filed on or about:	September 11, 2000
Respondent's Submission Agreement, filed on or about:	September 25, 2000
Respondent's Motion to Dismiss, filed on or about:	January 16, 2001

Hearing

The named parties appeared at the hearing session specified below, and had full opportunity to present arguments and evidence.

<u>Date(s)</u>	<u>No. of Sessions</u>	<u>Location</u>
January 25, 2001	1	Chicago, Illinois

Summary of Issues

The dispute involves an out trade on May 18, 2000 in a General Motors Corp (Hughes Electronics) Class H ("GMH") buy write trade involving 58 June 95 calls and 5800 shares of stock at 90 ¼. Patrick J. Burke ("Claimant") alleges that his afternoon out trade report showed WAC, a nominee for JOH Options Inc. ("Respondent"), coming in to sell 58 June 95 calls. Claimant further alleges that he did not know the trade but that he agreed to make the options trade good. Claimant asserts he was not informed that the trade was a buy write and that Respondent was looking to buy 5800 shares of GMH until May 22, 2000. Claimant asserts that Respondent failed to diligently check all out trades in a timely manner and that Respondent's untimeliness resulted in Claimant's loss in the amount of \$34,749.99. Claimant requests an award against Respondent for compensatory damages in the amount of \$34,749.99. Respondent denies Claimant's allegation that Respondent did not act with due diligence to resolve the out trade and asserts Respondent did every reasonable action to resolve the out trade. Respondent further asserts that Respondent showed the trade ticket, which clearly stated that the trade was a buy write with options and

stock, to Claimant on the day of the trade. Respondent requests an award of attorney's fees and the fees and costs of arbitration.

Other Issues Resolved

The arbitrators denied Respondent's Motion to Dismiss at the beginning of the hearing.

Award*

After due deliberation and consideration of the hearing testimony, documentary evidence, and other submissions of the parties, the undersigned arbitrators, in full and final resolution of the matter in controversy, award as follows:

1. The arbitrators deny Claimant's request for compensatory damages in the amount of \$34,749.99
2. The arbitrators deny Respondent's request for attorney's fees and the fees and costs of arbitration

Forum Fees

Pursuant to Exchange Rule 18.33, the Arbitrators assess the following forum fees:

Initial Filing Fee – Claim	\$500
Hearing Session Fees (1 x \$600)	\$600
Total	\$1,100

1. The arbitrators assess responsibility for the forum fees equally between the parties.
2. The Exchange shall retain the non-refundable filing fee in the amount of \$500 and the hearing session deposit in the amount of \$600 previously submitted by Claimant.
3. Respondent shall pay to Claimant the sum of \$550 for forum fees previously deposited by Claimant.

<u>/s/ Joseph D. Mueller</u>	<u>2/01/01</u>
Joseph D. Mueller, Chair and Industry Arbitrator	Date
<u>/s/ Christopher Cribari</u>	<u>2/01/01</u>
Christopher Cribari, Industry Arbitrator	Date
<u>/s/ Donald F. Pratl</u>	<u>2/01/01</u>
Donald F. Pratl, Industry Arbitrator	Date

* Pursuant to CBOE Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.