

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

In The Matter Of	)	
	)	
	)	
	)	
Okoboji Options, Inc.,	)	
	)	
Claimants	)	DECISION
	)	
v.	)	File No. 01M004
	)	
John J. Wiesner, Wiesner, Inc., and,	)	
St. Soter Trading, Inc.,	)	
	)	
Respondents.	)	
	)	

**Representation**

For Claimants:	James Judge, Vanasco, Genelly, & Miller, Chicago, Illinois
For Respondent:	Bruce J. Van Heukelem, Hoogendoorn & Talbot, Chicago, Illinois

**Pleadings**

Statement of Claim and Submission Agreement, filed on or about:	October 8, 2001
Answer, filed on or about:	November 16, 2001
Counterclaim, filed on or about:	November 16, 2001
Answer to Counterclaim, filed on or about:	December 10, 2001

**Hearing**

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

<u>Date(s)</u>	<u>No. of Sessions</u>	<u>Location</u>
January 14, 2003	2	Chicago, Illinois
January 15, 2003	2	Chicago, Illinois
January 16, 2003	1	Chicago, Illinois
January 23, 2003	2	Chicago, Illinois

### **Summary of Issues**

On or about October 8, 2001, Okoboji Options, Inc. ("Claimant") filed a Statement of Claim against John J. Wiesner (individual), Wiesner, Inc., and St. Soter Trading, Inc. ("Respondent"), claiming that, on or about July 24, 2001, Respondent, John Wiesner, directed a wire transfer of \$191,000 from the account of Claimant to Respondents' bank accounts without proper authorization. Claimant further claims that Respondent is still in possession of, and has no right or claim to, the \$191,000. Claimant also alleges that, in or around August, 2000, Respondent John Wiesner began taking monthly salary increases resulting in the improper payment of \$37,000 to Respondent. Additionally, Claimant submitted a claim for attorney fees incurred in the course of Claimant's attempt to secure a court order to restrain Respondents from access to the funds held by or through Respondents in certain bank accounts. Finally, Claimant seeks the return of the aforementioned monies and seeks punitive damages in an amount of \$450,000 plus attorney fees and costs incurred in the pursuit of this claim.

In their answer and counterclaim, filed on or about November 16, 2001, Respondents refute Claimant's claims and assert a right to retain all funds transferred from Claimant to Respondents, plus accrued interest. Additionally, Respondents seek additional payment for one and a half years of back salary for the period of January 1998 through July 1999 plus legal expenses incurred in the defense of the restraining orders that underlie this claim. Respondents also seek damages for the Claimant's alleged improper treatment of expenses against John Wiesner's equity while associated with Claimant, for an additional sum of \$163,750. Finally, Respondents seek attorney fees incurred in this matter.

### **Award\***

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

1. The panel awards Claimant \$23,000.00 in compensatory damages.
2. The panel awards Claimant \$32,594.00 in attorney fees.
3. The panel awards Claimant \$20,000.00 in punitive damages.
4. The panel awards Respondents \$173,000.00 in compensatory claims.
5. The panel denies Respondents claim for attorney fees.
6. To satisfy these awards, the panel hereby orders Respondents to submit payment to Claimant in the sum of \$75,594.00.
7. It is further ordered that Claimant's responsibility for the counterclaim award due Respondent in the sum of \$173,000.00 is hereby deemed satisfied because Respondents have taken possession and control of the \$191,000.00 that is the subject of dispute in this matter.

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\* 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.

8. Claimant shall be responsible for \$4,250.00 in forum fees.
9. Respondent shall be responsible for \$5,000.00 in forum fees.

#### Forum Fees

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

Initial Filing Fee – Claim	\$1,000
Initial Filing Fee – Counterclaim	\$750
Hearing Session Fees (7 x \$1,000)	\$7,000
Pre-Hearing Session Fees (1 x \$500)	\$500
Total	\$9,250

1. Responsibility for the forum fees, totaling \$9,250, shall be assessed as follows: Claimant shall be responsible for \$4,250 and Respondent shall be responsible for \$5,000.
2. The Exchange shall retain the non-refundable filing fees in the amount of \$1,750 and the hearing session deposits in the amount of \$1,750, previously submitted by Claimant and Respondents.
3. Claimant shall submit \$2,250 to the Chicago Board Options Exchange, Incorporated.
4. Respondent shall submit \$3,500 to the Chicago Board Options Exchange, Incorporated.

/s/ Daniel Baldwin  
Daniel Baldwin, Chairman and Industry Arbitrator

February 5, 2003  
Date

/s/ Stephen Donahue  
Stephen Donahue, Industry Arbitrator

February 6, 2003  
Date

/s/ Jonathan G. Flatow  
Jonathan G. Flatow, Industry Arbitrator

February 5, 2003  
Date