

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

IN THE MATTER OF)	
)	
O'Connor & Company, LLC,)	
)	
Claimants,)	
)	
v.)	File No. 04M005
)	
Estate of Mark O'Brien,)	
)	
Respondents.)	
)	

Representation

For Claimants:	Stephen Bedell, Foley & Lardner, Chicago, Illinois
For Respondent:	Bernard Moltz, Bernard W. Moltz & Associates, Chicago, IL (withdrew from case on March 11, 2005); Gregory Pasternik, Levin & Brand, P.C., Chicago, IL (withdrew from case at commencement of hearing on April 19, 2005); Respondent was not represented at hearing by counsel.

Pleadings

Statement of Claim and Submission Agreement, filed on or about:	October 18, 2004
Answer:	No answer filed

Hearing

Only the Claimant, named above, appeared at the hearing session specified below, and had a full opportunity to present arguments and evidence.

<u>Date(s)</u>	<u>No. of Sessions</u>	<u>Location</u>
April 19, 2005	1	Chicago, Illinois

Summary of Issues

On or about October 18, 2004, O'Connor & Company, LLC ("Claimant"), filed a Statement of Claim ("Claim") against the Estate of Mark O'Brien, deceased ("Respondent"). In its Claim, Claimant alleges that Respondent, Mark O'Brien, on or about May 15, 2002, entered into a Broker-Dealer Account ("Account") Agreement ("Agreement") with Respondent and, in the Agreement, Claimant contends that Mr. O'Brien agreed to be responsible to Claimant for any deficit balances incurred by Respondent in the Account. Claimant further contends that, prior to October 2002, Respondent incurred a debit balance of Five Hundred Twenty Seven Thousand Two Hundred Sixty Eight and 73/100 Dollars (\$527,268.73) and that, subsequently, despite several demands made upon Respondent by Claimant, Respondent failed or refused to repay any portion of the debit balance to Claimant. Claimant maintains that Respondent, Mr. Mark O'Brien, is deceased and they are bringing this Claim against his estate, which Claimant contends

was legally opened prior to the filing of this Claim. As such, Claimant has requested the arbitrators appointed to resolve this dispute to grant Claimant compensatory damages in the amount of \$527,268.73, plus accrued interest, attorney fees, and reasonable costs incurred in the pursuit of this arbitration.

No Answer was ever filed on Respondent's behalf and Respondent was not represented at the hearing.

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. Respondent is liable to Claimant for the sum of \$527,268.73.
2. Claimant's request for attorney fees and costs is denied.
3. Claimant shall be responsible for \$500 in forum fees incurred in this matter.
4. Respondent shall be responsible for \$1,500 in forum fees incurred in this matter.

Forum Fees

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

Initial Filing Fee – Claim	\$1,000
Hearing Session Fees (1 x \$1,000)	\$1,000
Total	\$2,000

1. Responsibility for the forum fees, totaling \$2,000, shall be assessed as follows: Claimant shall be responsible for \$500 and Respondent shall be responsible for \$1,500.
2. The Exchange shall retain \$500 from the \$2000 previously deposited with the Exchange by Claimants and the Exchange will refund \$1,500 to Claimants.
3. Respondent shall submit \$1,500 to the Exchange upon receipt of this Award.

<u>/s/ Thomas R. Beehler</u>	<u>5/11/2005</u>
Thomas R. Beehler, Chairman and Industry Arbitrator	Date
<u>/s/ Michael P. Held</u>	<u>5/12/2005</u>
Michael P. Held, Industry Arbitrator	Date
<u>/s/ Ann M. Grady</u>	<u>5/13/2005</u>
Ann Grady, 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.