

IN ARBITRATION
UNDER CHAPTER XVIII OF THE RULES
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INC.

IN THE MATTER OF)

Fossett Corporation)

Initiating Party)

and)

File No. 89-M-21

Dennis R. Moore, as nominee for)
G.A. "Curly" Smith, Inc.)

Federal Capital Corporation,)
Dean Cluff, Gerald A. Smith)

Responding Party)

AWARD

The captioned matter was submitted on November 17, 1989. All of the named parties appeared at a hearing on September 5, 1990 in Chicago, Illinois, and had full opportunity to present arguments and evidence. The above captioned controversy involved the following issues:

An alleged unpaid deficit in the respondent's market-maker clearing account in the amount of One Hundred Twenty-Eight Thousand Two Hundred Forty-Seven Dollars (\$128,247). While all respondents were notified of the pending claim, only Mr. Smith submitted a response. Mr. Smith claims he was merely a silent partner who along with others, invested funds in an options investment venture. Mr. Smith alleges that his associate, Mr. Dean Cluff advised him that a very low risk trading strategy would be used and very little capital was at risk. Mr. Smith also signed a consent of jurisdiction stating that he would abide by the CBOE's Constitution and Rules and a form of guaranty for G.A. "Curly" Smith, Inc. Fossett Corporation is arbitrating for the debit balance of One Hundred Twenty-Eight Thousand Two Hundred Forty-Seven Dollars (\$128,247) plus interest and other charges from October 21, 1989 until paid.

The undersigned arbitrators have been fully advised by the parties and after due deliberation, award as follows:

The panel concluded that Gerald A. Smith is liable to Fossett Corporation. Gerald A. Smith will pay Fossett Corporation the sum of One Hundred Forty-Eight Thousand Five Hundred Ninety-Nine and 84/100 Dollars (\$148,599.84) plus interest after September 12, 1990 at a rate of 9% per

annum until the award is paid in full. The panel also noted that Mr. Smith may have been improperly and unsuitably advised by his associates. Filing fees on deposit with the Exchange are retained.

Charles B. Cox, III

10-24-90
Date

Gregg M. Rzepczynski

10/25/90
Date

Jeffrey H. Melgard

10/25/90
Date