

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

IN THE MATTER)
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Initiating Party)

and)

LIT America, Inc.)

Responding Party and)
Third-Party Claimant)

and)

Chicago Board Options Exchange, Inc.)
Third Party Respondent)
_____)

Arbitration File No. 90-NM-30

AWARD

The captioned matter was submitted on October 30, 1990. Pursuant to CBOE Rule 18.5(a), _____ waived the hearing for the initial claim involving LIT America, Inc. ("LIT"). However, LIT initiated a third-party claim against CBOE and requested a hearing. _____ elected not to attend that hearing, but requested to be telephonically present. The third-party claim was heard on February 25, 1992 in Chicago, Illinois, and had full opportunity to present arguments and evidence. The parties agreed to an all industry panel. The above captioned controversy involved the following issues:

Claimant alleges that the two market orders he entered to sell 20 OEX August 330 puts and 20 OEX August 325 puts were not filled in a timely manner resulting in damages in the amount of \$14,500. LIT replied that they "booked" the orders and are not responsible for untimely executions. LIT named CBOE as the responsible third party. CBOE admitted that the orders were "booked" and were not filled upon receipt. However, due to fast market conditions, _____ received a better price for his orders than if the orders had been filled instantaneously.

Claimant further alleges that his market on the close order to sell 45 OEX September 45 puts was not properly executed by LIT. LIT denies this allegation.

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

The undersigned arbitrators find that although the sell orders of 20 OEX 330 and 325 puts may not have been executed by the CBOE book in a timely manner, no damages resulted. A review of the time and sales indicates that had the order been executed upon receipt at (9:27 a.m. Chicago Time) or within 15 minutes by the OBO, the price would have been the same or lower than the price the claimant actually received as a result of the delay.

Regarding the issue of the sell order for 45 OEX September 320 puts, the panel finds that the order was filled within a price range consistent with the execution of a market close order. The OEX does not have a closing rotation where a one price closing is achieved. Accordingly, an order executed within several minutes of the close at a price within the markets of those last several minutes is an appropriate market on the close fill.

Accordingly, no award for the claimant for the claim against LIT. No award for the third party claim against CBOE. All fees submitted to the Exchange are retained.

/s/ Charles B. Cox, III
Charles B. Cox, III

3/3/92
Date

/s/ Fred Teichert
Fred Teichert

3/3/92
Date

/s/ Stephen E. McKenzie
Stephen E. McKenzie

3/11/92
Date