

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Nasheng Lin

93-01931

Name of Respondents

David Chen Yu  
Quest Capital Strategies, Inc.  
Paulson Investment Co.  
Chiseng Lin

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 13, 1993, Claimant Nasheng Lin, through her counsel Howard D. Hall, Pettis, Tester, Kruse & Krinsky, Irvine, CA, alleged that Respondent Quest Capital Strategies, Inc. wrongfully cancelled three trades in the Claimant's account over one month after they were made, and that the cancelling of these trades, consisting of a purchase of 300 shares of Hewlett-Packard, the sale of 1,000 shares of National Semiconductor and the purchase of 1,000 shares of TipHook PLC, caused a loss in profits for which the Respondents should be held liable. The Claimant further alleged that Respondent Paulson Investment Co. did not timely follow her instructions to transfer 1,000 shares of National Semiconductor to Quest Capital Strategies, Inc., which caused a short position in her account, and that this short position in turn caused the cancellation of the trade. The Claimant contended that due to the many misdeeds of the Respondents, she has suffered damages for which she should be compensated.

Respondent Paulson Investment Co., through its outside counsel, Keith A. Ketterling, OSB, Portland, OR, maintained that it is not responsible for any losses incurred by the Claimant, since any losses she sustained are attributable to superceding, intervening acts of third parties, namely Respondent Quest Capital Strategies, Inc. and David Chen Yu.

In a Cross claim against Quest Capital Strategies, Inc. and David Chen Yu, Paulson Investment Co. contended that it should be entitled to be indemnified by these Respondents for any liability imposed upon it.

In a joint Statement of Answer, Respondents Quest Capital Strategies, Inc. and David Chen Yu, through in-house counsel Barry Jacobs, Esq., maintained that the Claimant's claims are barred due to her failure to make payment and deliver the shorted stock to Quest Capital Strategies, Inc., after repeated demand, and further that she is bound by the breaches, failings, conduct and omissions of Chiseng Lin & Paulson Investment Co. The Respondents contended that no basis exists to support the alleged claim should be dismissed.

In a cross claim against Paulson Investments Co. and a third party claim against Chiseng Lin, Quest Capital Strategies, Inc. and David Chen Yu contended that these parties should indemnify them for all loss and expenses incurred in this matter, since Claimants' losses are due to their wrongdoing, not any wrongdoing on the part of Quest Capital Strategies, Inc. or David Chen Yu.

In a reply to the third party claim, Chiseng Lin, through her counsel Howard D. Hall, Esq., maintained that she acted properly in making the subject trades, and further that Respondents wish to create confusion by focusing on irrelevant points which do nothing to deny that Respondents breached its agreement to allow an additional day to cover the short position for the trade in question, which is the reason the claim was brought forth.

#### **RELIEF REQUESTED**

Claimant Nasheng Lin requested \$10,000.00 in actual damages, plus costs.

Third party Respondent Chiseng Lin requested the claims against her be dismissed.

Respondents Quest Capital Strategies, Inc. and David Chen Yu requested that the claims of the Claimant be dismissed, that they be indemnified of any liability by Paulson Investments, Inc. and Chiseng Lin.

Respondent Paulson Investments Co. requested that the claims of the Claimant be dismissed and that it be indemnified of any liability by Quest Capital Strategies, Inc. and David Chen Yu.

#### **AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael Steven Carona, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 7, 1993, by the Respondent David Chen Yu on November 24, 1993, by Respondent Paulson Investments Co. on August 3, 1993, and by Respondent Quest Capital Strategies, Inc. on November 24, 1993.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Nasheng Lin against Respondents David Chen Yu, Paulson Investment Co. and Quest Capital Strategies, Inc. are dismissed in their entirety.
2. The cross claim and third party claim of Respondents Quest Capital Strategies, Inc. and David Chen Yu against Paulson Investment Co. and Chiseng Lin are dismissed in their entirety.
3. The cross claims of Paulson Investment Co. against Quest Capital Strategies, Inc. and David Chen Yu are also dismissed in their entirety.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Nasheng Lin shall be retained by the NASD, Inc.


**Affirmation**

STATE OF CALIFORNIA

} SS:

COUNTY OF ORANGE

I, MICHAEL S. CARONA, do hereby affirm upon my oath  
as arbitrator that I am the individual described in and who executed this instrument,  
which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: March 14, 1995