

LIT Clearing Services, Inc.,
 Claimant,
 v.
 Howard J. Lewis,
 Respondent.

For Respondent(s): Stephen P. Bedell and David J. Gilmartin, Gardner, Carton & Douglas, Chicago, IL

Statement of Claim filed on or about: November 19, 1993
 Answer filed on or about: December 16, 1993
 Respondent's Motion to Dismiss filed on or about: September 23, 1994
 Claimant's Response to Motion to Dismiss filed on or about: December 7, 1994

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

Date: December 9, 1994: No. of Sessions: 1

Location: Chicago, IL

LIT Clearing Services, Inc. ("Claimant") asserts that it is the owner of all accounts receivable, rights, claims and causes of action formerly owned by LIT America, Inc. against Howard J. Lewis ("Respondent"). Claimant alleges that Respondent incurred a net liquidating deficit of approximately \$46,295.00 in his clearing account(s) at LIT America. Claimant further alleges that Respondent has failed or refused to pay the deficit balance. Claimant requests an award against Respondent in the amount of \$46,295.00, plus interest, costs and attorneys' fees and such other relief as the arbitrators deem appropriate.

In his Answer and/or Motion to Dismiss, Respondent asserts that he understood that the deficit balance had been paid by his sponsor, Barbara Rothstein ("Rothstein"), pursuant to a verbal agreement with Rothstein and a personal guarantee of Respondent's account by

Rothstein. Respondent further asserts that the claim is barred by laches due to Claimant's unreasonable delay in initiating the claim and Claimant's failure to notice Respondent that Claimant would assert a claim against him. Respondent further asserts that Claimant's failure to pursue the claim prior to Rothstein's filing for bankruptcy, in 1992, prejudiced Respondent by preventing Respondent from naming Ms. Rothstein as a party to the arbitration proceeding. Respondent requests that the claim be dismissed.

In Response to the Motion to Dismiss, Claimant asserts that laches is inapplicable as a defense to a claim for monetary damages, and that the claim was timely under Illinois law and CBOE rules. Claimant further asserts that Respondent had knowledge of all events involving his trading account or at least had access to said information. Claimant further asserts that any injury or prejudice was caused by Respondent's own lack of diligence.

Award*

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

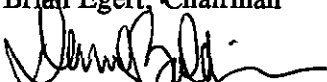
1. Respondent is liable for the net liquidating balance in his clearing account(s) at LIT America and shall pay to Claimant the amount of \$46,295.00.
2. No award is rendered for interest, costs or attorneys fees.


Forum Fees

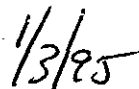
Pursuant to CBOE Rule 18.33, the Arbitrators assess forum fees as follows:

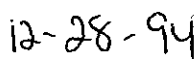
1. Claimant is responsible for forum fees in the amount of \$1,100.00, which includes a non-refundable filing fee in the amount of \$500.00 and a hearing session fee in the amount of \$600.00. The Exchange shall retain the \$1,100.00 previously submitted by Claimant.
2. Claimant is responsible for the adjournment fee in the amount of \$600.00 for the postponement of the October 28 1994 hearing. The Exchange shall retain the \$600.00 previously submitted by Claimant.

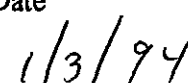

Brian Egert, Chairman


Daniel Baldwin


Stuart D. Goldner


Date


Date


Date