

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

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IN THE MATTER OF )

Wagner Stott Clearing Corp., )

Claimant/CounterRespondent, )

v. )

Reuven Avraham, )

Respondent/CounterClaimant. )  
\_\_\_\_\_

DECISION

File No. 94 M 09

**Representation**

For Claimant/CounterRespondent:

Peter R. Sonderby, Chicago, Illinois

For Respondent/CounterClaimant:

Judy Koster, Chicago, Illinois

**Pleadings**

Statement of Claim filed on or about: September 3, 1994

Answer and Counterclaim filed on or about: October 25, 1994

Response to Counterclaim filed on or about: November 14, 1994

**Hearing**

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

Date(s): September 12, 1995

No. of Sessions: 1

Location: Chicago, Illinois

**Summary of Issues<sup>1</sup>**

The captioned controversy involves a debit balance in a clearing account maintained by Reuven Avraham ("Avraham"), a former member of the Chicago Board Options Exchange ("Exchange"), with Wagner Stott Clearing Corp. ("Wagner Stott"), an Exchange member organization, pursuant to a written agreement. Wagner Stott alleges that, despite repeated demands for payment, Avraham has failed and refused to pay the deficit balance of \$4,629.34 that

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<sup>1</sup> Pursuant to Exchange Rule 18.31, this section of the Decision provides a summary of the major issues presented by the parties in the pleadings.

was owed to Wagner Stott when Avraham's account was closed on November 27, 1993. In addition, Wagner Stott alleges that Avraham submitted a \$10,000 check in response to repeated requests from Wagner Stott to submit additional funds in order to meet his account's minimum equity requirements. Wagner Stott further alleges that the check was returned by the bank marked "account closed." Wagner Stott requests an award against Avraham in the amount of \$4,629.34 in compensatory damages, a \$500.00 penalty pursuant to Chapter 38, Section 17-1A of the Illinois Revised Statutes for the returned check, plus interest, costs and attorney's fees.<sup>2</sup>

Avraham asserts that Wagner Stott released the seat upon which Avraham was trading at the close of trading on November 2, 1993, but failed to notify Avraham that his trading privileges were terminated until mid-day, November 3, 1993. Avraham seeks an award against Wagner Stott in the amount of \$2,609.77 for losses incurred as a result of Avraham not being allowed to finish out the day. Avraham further asserts that Wagner Stott was responsible for the trading of Avraham's position from on or about November 4, 1993, to November 16, 1993, which resulted in a negative balance in Avraham's account. Avraham alleges that from the date his trading privileges were terminated until the date Wagner Stott closed his account, the account suffered a loss of \$12,632.02. Avraham seeks an award against Wagner Stott in the amount of \$12,632.02 for failure to close the account on November 4, 1993. In addition, Avraham asserts that Wagner Stott filed a law suit in the Circuit Court of Cook County against Avraham seeking to recover the alleged debt, in contravention of the mandatory arbitration provision of the contract between the parties and Exchange Rule 18.1. Avraham seeks the sum of \$3,360.00 in attorney's fees and court filing fees for the cost of defending the civil action, which was dismissed, without prejudice, pending arbitration on July 7, 1994.

### Award<sup>3</sup>

After due deliberation and consideration of the hearing testimony, documentary evidence, and other submissions of the parties, the undersigned arbitrators find that the parties had a full opportunity to make a complete presentation of their respective cases and, in full and final resolution of all issues submitted to arbitration, award as follows:

1. Avraham is responsible for the deficit balance in his account and shall pay to Wagner Stott the amount of \$5,147.63, which is the total of the deficit in the amount of \$4,629.34, plus interest in the amount of \$518.29 computed through September 12, 1995.
2. Avraham is responsible for and shall pay to Wagner Stott the amount of \$500.00 as a penalty for the returned check pursuant to Chapter 38, Section 17-1A of the Illinois Revised Statutes.

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<sup>2</sup> The compensatory damage claim reflects the revised calculation of damages that was submitted by Wagner Stott at the hearing.

<sup>3</sup> 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.

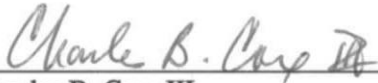
3. Avraham is responsible for and shall pay to Wagner Stott the amount of \$1,000.00 for attorney's fees.
4. Avraham is responsible for and shall pay to Wagner Stott the amount of \$1,100.00 for forum fees previously submitted to the Exchange by Wagner Stott.
5. This award shall bear interest at the rate of 8% per annum from the date of the award until paid.
6. All claims against Wagner Stott are denied. Said claims include, but are not limited to:
  - (i) Avraham's claim in the amount of \$2,609.77 for trading losses incurred on November 3, 1993,
  - (ii) Avraham's claim in the amount of \$12,632.02 for failure to close his account on November 4, 1993,
  - (iii) Avraham's claim in the amount of \$3,360.00 for attorney's fees, plus court filing fees for the cost of defending the civil action, and
  - (iv) Avraham's claim in the amount of \$1,100.00 for arbitration forum fees.

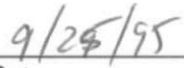
#### **Forum Fees**

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

1. The Exchange shall retain the non-refundable filing fee in the amount of \$500.00 and the hearing session deposit in the amount of \$600.00 previously submitted by Wagner Stott to the Exchange upon the submission of the Statement of Claim.
2. The Exchange shall retain the fee in the amount of \$600.00 submitted by Wagner Stott pursuant to Exchange Rule 18.20 for the adjournment of the hearing session scheduled for June 8, 1995.
3. Avraham is liable for and shall pay to the Exchange the amount of \$500.00 for the non-refundable filing fee that was due upon the filing of his Counterclaim.


4. Avraham is liable for and shall pay to the Exchange the amount of \$600.00 pursuant to Exchange Rule 18.20 for the adjournment of the hearing session scheduled for July 25, 1995.

  
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Charles B. Cox, III,  
Industry Arbitrator and Chairman

  
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Date

  
\_\_\_\_\_  
Scott Andrews, Industry Arbitrator

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Joseph D. Mueller, Industry Arbitrator

  
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Date