

## NASD REGULATION AWARD

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In the Matter of the Arbitration Between

Name of Claimants

Wea Sun  
Lido Securities Corp.

96-00770

Name of Respondents

Chinese & American Investments, Inc.  
Jimmy Woo  
Yu-Lin Woo

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**REPRESENTATION**

For Claimants Wea Sun ("Sun") and Lido Securities Corporation ("Lido") (collectively referred to as the "Claimants") appeared Theodore A. Krebsbach, Esq., of the firm Kittay, Gold & Krebsbach located in White Plains, New York.

For Respondents Chinese and American Investments, Inc. ("CAI") and Yu-Lin Woo appeared James P. Yudes, Esq., of the law offices of James P. Yudes, P.C. located in Springfield, New Jersey.

For Respondent Jimmy Woo appeared Charles C. Woo. Jimmy Woo was previously represented by Alan M. Grosman, Esq. of the firm Grosman & Grosman located in Milburn, New Jersey.

**CASE INFORMATION**

Claimants' Statement of Claim was filed on February 20, 1996. Claimants filed a Supplement to the Statement of Claim was filed on February 28, 1996. Sun's Submission Agreement was signed on February 20, 1996. Lido's Submission Agreement was signed on February 27, 1996.

CAI and Yu-Lin Woo filed a Statement of Counterclaim, Applying for Injunctive Relief and Demanding Expedited Proceedings and Verified Complaint on March 5, 1996. CAI's Submission Agreement was signed on March 8, 1996. Yu-Lin Woo's Submission Agreement was signed on March 8, 1996.

Jimmy Woo filed a Statement of Answer on March 21, 1996. Jimmy Woo's Submission Agreement was signed on March 13, 1997.

### HEARING INFORMATION

Injunctive Relief Hearings:	March 6, 1996	-	One Session
	March 8, 1996	-	Two Sessions
Pre-hearing conferences:	March 25, 1996	-	One Session
	May 15, 1996	-	One Session
Hearing Dates/Sessions:	March 28, 1996	-	Two Sessions
	May 28, 1996	-	Two Sessions
	July 18, 1996	-	One Session
	January 9, 1997	-	Two Sessions
	March 11, 1997	-	Two Sessions
	March 13, 1997	-	Two Sessions
	March 14, 1997	-	Two Sessions
	May 1, 1997	-	Two Sessions
	May 22, 1997	-	Two Sessions
	May 27, 1997	-	Two Sessions
	June 25, 1997	-	Two Sessions
	June 26, 1997	-	Two Sessions
	July 31, 1997	-	Two Sessions
	August 26, 1997	-	Two Sessions

The injunctive relief hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York. The hearing sessions conducted on March 28, 1996 were conducted at the Midday Club, located at 140 Broadway, New York, New York. All other hearings sessions were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

### CASE SUMMARY

Claimant Sun alleged that, in February 1989, he entered into a partnership agreement (the "partnership agreement" or the "contract")) with Jimmy Woo, CAI, and Albert Lin to open and operate a CAI branch office known as the Flushing Division ("Flushing"), which would be a separate profit center from CAI. Claimant further alleged that the contract was amended in August 1989, with Mr. Lin withdrawing from the partnership and Woo and Sun each investing \$45,000.00 in capital and becoming 50% partners in Flushing.

Claimant contended that the partnership agreement provided that Jimmy Woo and Sun would be co-managers of Flushing, and that CAI would be exclusively responsible for Flushing's compliance with the rules and regulations of the SEC, NASD and state regulatory bodies. Claimants further contended that Sun and Jimmy Woo would receive a percentage of the gross commissions from trades each generated for clients, pursuant to a formula set forth in the partnership agreement, and each would also share equally in Flushing's net profits, if any.

Claimants alleged that the partnership agreement, in language drafted by Jimmy Woo,

represented that CAI would charge Flushing the actual charges assessed CAI, which actual charges were represented to be \$25.00 for common stock and \$15.00 for options. Sun alleged that he relied upon the truth of this representation, and would not have signed the contract had he known these figures were false.

Claimants alleged that Jimmy Woo failed to ever show up at Flushing to perform his obligations under the contract, that he never worked as a broker in Flushing, and that he never performed his duties as co-branch manager. Claimants further alleged that Jimmy Woo disappeared without a trace and without leaving Sun a forwarding address or telephone number. Claimants also alleged that Jimmy Woo failed to provide the supervision required through his broker-dealer, CAI, as required by the contract, and his absence from the broker-dealer resulted in its being temporarily closed and threatened the viability of Flushing. Claimants contended that Jimmy Woo later twice attempted to transfer his Flushing interest without Sun's written permission as required by the contract, or without even notifying Sun of the alleged transfers. Claimants further contended that, by repudiating and breaching the contract, Jimmy Woo forfeited any rights he might otherwise have under the contract, including his right to sue for breach of contract or for one-half interest in Flushing's value.

Claimant Sun alleged that, from 1989 to February 1996, he performed all of his contractual obligations and personally built the Flushing branch entirely from his own efforts, without any assistance from Jimmy Woo. Claimants further alleged that Flushing's viability was continually threatened by the actions of Jimmy Woo and his ex-wife, Yu-Lin Woo, during the course of their bitter divorce action in which Yu-Lin Woo obtained restraining orders, appointed a receiver, froze assets needed by Flushing to run its business, and generally acted in a manner adverse to Flushing's and Sun's interests. Claimant also alleged that, only after Jimmy Woo improperly attempted to transfer his Flushing interest to Yu-Lin Woo on February 17, 1996, did he begin operating his own broker-dealer, Lido, in what had previously been the Flushing office.

Jimmy Woo maintained that Sun secretly opened an account at Chase Manhattan Bank and transferred \$30,000.00 from the Flushing office account to the Chase Manhattan account without his knowledge. Jimmy Woo further maintained that the discrepancy in clearing charges is to compensate CAI for paying all fees, preparing reports, handling all paperwork, and assuming the risk of operations of the Flushing office. Jimmy Woo further maintained that Sun violated the covenant not to compete provision in the agreement by starting his own business, Lido, in the Flushing office which was operating under the licenses of CAI.

Yu-Lin Woo and CAI maintained that Sun violated the agreement which prohibited him from affiliating as a principle with a broker dealer in the New York Metropolitan area for a period of two years upon his withdrawal from the Flushing Division. Yu-Lin Woo and CAI further maintained that Sun engaged in fraudulent course of conduct by willfully, maliciously, and intentionally converting to his own use commissions, clients, accounts, furniture, and equipment belonging to CAI. Yu-Lin Woo and CAI also alleged that Sun violated his duty of loyalty to them.

### **RELIEF REQUESTED**

Claimants requested the following relief:

1. rulings that Jimmy Woo defrauded him as to the ticket charges and induced the Partnership Agreement by fraud; that the contract is void due to Jimmy Woo's fraud and repudiation, and that neither Jimmy Woo nor Yu-Lin Woo has an interest in Flushing or Lido Securities;
2. an order permanently enjoining Jimmy Woo and Yu-Lin Woo from interfering with or disrupting Sun or Lido;
3. an award of \$428,000.00 in compensatory damages against Jimmy Woo and CAI (and Yu-Lin Woo, should the panel find she stands in the shoes of Jimmy Woo) jointly and severally, to compensate Sun for the overcharges plus 9% statutory interest;
4. an order directing US Clearing Corp., the clearing company, to release to Sun the funds from Flushing that it still holds on behalf of Sun and Jimmy Woo, as partial payment of the above damages;
5. an award of \$165,892.19 in legal fees against Respondents jointly and severally;
6. an award of punitive damages against Jimmy Woo and Yu-Lin Woo, jointly and severally, in an amount to be determined by the arbitrators due to Jimmy Woo's fraud and Respondents' bad faith arbitration tactics;
7. dismissal of all claims by Jimmy Woo and Yu-Lin Woo; and
8. referral of this award to the NASD regulatory authorities with a recommendation of appropriate disciplinary action against CAI and Jimmy Woo.

Jimmy Woo requested the following relief:

1. that the allegations of overcharge to Flushing be denied;
2. the amount of the loss incurred by Sun's wrongdoing along with punitive damages and interest as determined by the arbitrators;
3. that all the rights and obligations of disposition of this case go to Yu-Lin Woo alone because he gave CAI and 50% ownership of the Flushing office to Yu-Lin Woo in accordance with the Judgment of Divorce; and
4. attorneys' fees in the amount of \$20,450.

Yu-Lin Woo and CAI requested compensatory damages in the amount of \$708,472.50, punitive

damages to be determined by the panel, counsel fees, and costs. Yu-Lin Woo and CAI further requested that the arbitrators release the freeze on account No. 555, direct all accounts of CAI to the control of Yu-Lin Woo, and release and discharge all restraints on the business operations CAI.

### **OTHER ISSUES CONSIDERED & DECIDED**

On May 13, 1996, Arbitrator Walter Kapuscinski withdrew from this matter. Mr Kapuscinski was replaced by Arbitrator Fred Shinagel. On November 21, 1996, the parties were informed that Arbitrator Murray I. Sommer had passed away. Mr. Sommer was replaced by Arbitrator Fred S. Pieroni.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearings and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents CAI, Yu-Lin Woo and Jimmy Woo be and hereby are jointly and severally liable and shall pay Claimant Sun compensatory damages in the amount of \$137,049.00.
2. The funds in the Escrow Account created at the direction of Arbitrator Murray I. Sommer in March, 1996 shall be released to Claimant Lido upon receipt of this decision.
3. Claimant Sun is awarded 50% of the funds held in the account by U.S. Clearing Corporation.
4. Respondents Jimmy Woo, Yu-Lin Woo and CAI are awarded 50% of the funds held in the account by U.S. Clearing Corporation.
5. All counterclaims against Claimants are hereby denied.
6. All requests for punitive damages and attorneys' fees are hereby denied.
7. Each party shall bear their respective costs, including attorneys' fees.
8. Interest on all claims and counterclaims is hereby denied.
9. All other requests for relief are hereby denied.

### FORUM FEES

Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$500.00 non-refundable filing fee and the \$2,500.00 injunctive relief fee previously submitted by Claimants, and the \$500.00 non-refundable filing fee and the \$2,500.00 injunctive relief fee previously submitted by Yu-Lin Woo and CAI. The arbitrators have also assessed the following forum fees:

3 injunctive relief session x \$300.00	= \$ 900.00
2 pre-hearing conferences x \$300.00	= \$ 600.00
27 hearing sessions x \$600.00	= <u>\$16,200.00</u>
Total forum fees	= \$17,700.00

1. Claimants be and hereby are liable and shall pay the sum of \$8,850.00, representing one-half the total forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation, Inc., and, therefore, shall pay the balance of \$8,250.00.
2. Respondents Jimmy Woo, Yu-Lin Woo and CAI be and hereby are jointly and severally liable for the sum of \$8,850.00, representing one-half the total forum fees assessed. CAI and Yu-Lin Woo previously deposited \$600.00 with NASD Regulation, Inc., and, therefore, Respondents shall pay the balance of \$8,250.00.
3. Claimant Lido be and hereby is liable and shall pay the sum of \$350.00, representing the member surcharge.
4. Respondent CAI be and hereby is liable and shall pay the sum of \$350.00, representing the member surcharge.

Fees are payable to NASD Regulation, Inc.

Arbitrators' Signatures

*Theodore Kadin*

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Theodore Kadin, Esq.  
Chairperson-Public Arbitrator

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Fred S. Pieroni  
Public Arbitrator

\_\_\_\_\_  
Fred Shinagel  
Industry Arbitrator

Date of decision: November 21, 1997

I, **Theodore Kadin, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

*Theodore Kadin*  
\_\_\_\_\_  
Theodore Kadin, Esq.

Arbitrators' Signatures

Theodore Radin, Esq.  
Chairperson-Public Arbitrator

Fred S. Pieroni  
Fred S. Pieroni  
Public Arbitrator

Fred Skingel  
Industry Arbitrator

Date of decision: November 21, 1997

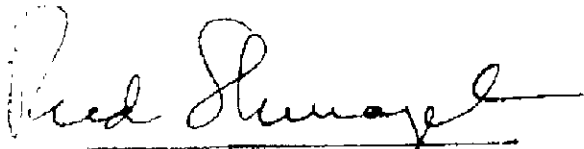
I, Fred S. Pieroni, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Fred S. Pieroni  
Fred S. Pieroni

Arbitrators' Signatures


\_\_\_\_\_  
Theodore Kadin, Esq.  
Chairperson Public Arbitrator

\_\_\_\_\_  
Fred S. Pieroni  
Public Arbitrator

  
\_\_\_\_\_  
Fred Shinagel  
Industry Arbitrator

Date of decision November 21, 1997

I, Fred Shinagel, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
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Fred Shinagel