

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Chia-Hwa "Peter" Lao

96-01780

Name of Respondent

Chinese & American Investments, Inc.  
Lido Securities Corp.  
Wea Sun

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REPRESENTATION

For claimant Chia-Hwa "Peter" Lao ("claimant") appeared Walter D'Ull, Esq., a sole practitioner located in New York, New York.

For respondent Chinese & American Investments, Inc. ("CAI") appeared Jimmy Woo of Chinese and American Investments, Inc. located in New York, New York.

For respondents Lido Securities Corp. ("Lido") and Wea Sun ("Sun") appeared Theodore A. Krebsbach, Esq. of Kittay, Gold & Krebsbach located in White Plains, New York.

CASE INFORMATION

Statement of Claim was filed on April 22, 1996. Claimant's Submission Agreement was signed on April 24, 1996.

Statement of Answer was filed by CAI on June 11, 1996. CAI did not file a Submission Agreement.

Joint Statement of Answer was filed by Lido and Sun on June 13, 1996. Lido's Submission Agreement was signed on June 14, 1996. Sun's Submission Agreement was signed on June 14, 1996.

HEARING INFORMATION

Pre-Hearing Conference:

November 5, 1996

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One Arbitrator

Hearing Dates/Sessions:	November 11, 1996	-	Two Sessions
	November 18, 1996	-	Two Sessions

The hearing conducted on November 11, 1996 were held at the City Midday Club located at 140 Broadway, New York, New York. The hearing conducted on November 18, 1996 were held at the offices of the National Association of Securities Dealers, Inc. located in New York, New York.

### CASE SUMMARY

Claimant alleged that for over 25 years he maintained a brokerage account, but that he never bought or sold futures or options nor traded on margin. Claimant further alleged that he opened a discretionary account at CAI with Jerome Lu ("Lu"). Claimant contended that Lu was an unlicensed financial advisor who had offices at CAI and that the transactions were executed by Hongda Chen ("Chen"), a licensed broker. Claimant also contended that Lido was CAI's successor corporation.

Claimant alleged that Lu never discussed any trades with him and that neither Lu nor Sun ever inquired into his financial situation. In addition, claimant alleged that his account was overtraded both in terms of the number of transactions and the size of the positions assumed. Claimant asserted that Lu incorrectly advised him that his trading was low risk in that all positions were hedged. Further, claimant asserted that Lu took positions that were technically unfeasible and that Lu's trading methods were unsuitable because the possible loss exceeded the possible gain. Moreover, Lao maintained that CAI employed Sun as a manager and was responsible under the doctrine of respondeat superior.

CAI maintained that claimant was wealthy and he enjoyed investing in high risk options. In addition, CAI further maintained that claimant had previous experience with option trading and had a very good financial situation. CAI contended that Lu did not discuss the trades with claimant because claimant authorized Lu to trade on his behalf. CAI further contended that, if claimant was dissatisfied with Lu's trading, he should not have continued trading through February and March 1995.

In addition, CAI denied that it ever employed either Lu or Sun, but that Sun worked as an independent contractor at CAI in New York ("CANY"). CAI maintained that Sun signed all customer documents in CANY and was solely responsible for CANY customers. CAI further maintained that it only executed stock transactions for CANY and was never involved in any direct relationship with any of CANY's customers. CAI also maintained that, in June, 1995, Sun created Lido and then transferred CANY customers to Lido.

Sun and Lido maintained that Sun was a general securities principal, registered representative, and manager at CAI's Flushing office. Sun and Lido also maintained that CAI employed Chen as a registered representative and that Lu was an independent investment advisor who was not employed by CAI, did not act as a registered representative, and was not subject to the respondents' supervision or control. However, according to Sun and Lido, respondents did monitor Lu's trading activity on behalf of CAI customers to insure that it was suitable.

Furthermore, respondents Sun and Lido contended that Lido was not a successor corporation of CAI and that claimant did not maintain a brokerage account at Lido at any time.

Sun and Lido maintained that, before claimant's account was opened and approved for options trading, Sun and Chen met with claimant to discuss the risks of options trading and warned claimant that index options trading was extremely risky and that he could lose his entire investment in a very short period of time. According to Sun and Lido, claimant was also advised that Lu's history of successful index options trading was no assurance of future success. Moreover, Sun and Lido contended that claimant informed Sun and Chen that he understood the risks related to Lu's proposed options trading and stated that he wanted to speculate in options.

Sun and Lido maintained that claimant received trade confirmations and account statements which accurately reflected the trading activity in his account and that he never objected to Lu's speculative options trading. Furthermore, Sun and Lido contended that claimant was sufficiently sophisticated to understand the nature and risk of Lu's trading in his account.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$80,346.00, plus interest, attorneys' fees and costs.

CAI requested that it be released from this case.

Sun and Lido requested that the arbitration panel: 1) dismiss the claim in its entirety; 2) award their costs, including attorneys' fees; and 3) grant such other relief as the panel deemed just and proper.

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

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.

The panel made the following rulings as to respondent CAI who failed to file a properly notarized Submission Agreement in this matter:

1. Pursuant to Section 1 of the Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that CAI was a member of the NASD at the time this controversy arose. Consequently, the panel found personal jurisdiction over CAI pursuant to Section 12(a) of the Code.
3. The panel found that CAI was required to file a properly notarized Submission Agreement pursuant to Section 25(b) of the Code.

### AWARD

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

1. All claims against respondents be and hereby are dismissed in their entirety.
2. Claimants' request that the panel set forth the reasoning for its decision is hereby denied.
3. Each party shall bear their own costs, including attorneys' fees.
4. All other claims are hereby denied.

### FORUM FEES

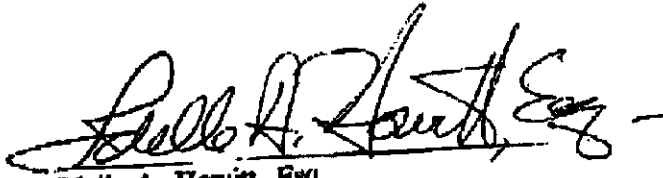
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$150.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

1 pre-hearing conference	=	\$ 300.00
4 hearing sessions x \$500.00	=	<u>\$2,000.00</u>
Total	=	\$2,300.00

1. Claimant be and hereby is liable for the sum of \$1,150.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$500.00 with the NASD and, therefore, claimant shall pay \$650.00 to the NASD.
2. Respondents CAI, Lido and Sun be and hereby are jointly and severally liable and shall pay \$1,150.00 to the NASD, representing one-half of the total amount of forum fees assessed.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures



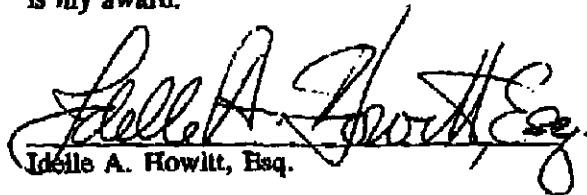
Idelle A. Howitt, Esq.  
Chairperson--Public Arbitrator

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Wendi F. Weill, Esq.  
Public Arbitrator

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James R. Madan  
Industry Arbitrator

Date of decision: March 11, 1997

I, Idelle A. Howitt, 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.



Idelle A. Howitt, Esq.

Concurring Arbitrators' Signatures

Idelle A. Howitt, Esq.  
Chairperson--Public Arbitrator

Wendi F. Weill, Esq.  
Public Arbitrator

James R. Madan

James R. Madan  
Industry Arbitrator


Date of decision: March 11, 1997

I, James R. Madan, 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.

James R. Madan  
James R. Madan

Concurring Arbitrators' Signatures

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Idelle A. Howitt, Esq.  
Chairperson--Public Arbitrator

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Wendi F. Weill, Esq.  
Public Arbitrator

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James R. Madan  
Industry Arbitrator

Date of decision: March 11, 1997

I, Wendi F. Weill, 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.

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Wendi F. Weill, Esq.