

**AWARD**

**~~NASD Regulation, Inc.~~ Office of Dispute Resolution**  
**In the Matter of the Arbitration Between**

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**Winnie Wing-Lai Ng and Shu Yau Yeung, Joint Tenants,**

**Claimants,**

**and**

**Case No. 98-00379  
(Consolidated with  
98-01832 below)**

**American Asian Investment, Incorporated,**

**Respondent.**

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**Wai-Yee Lau,**

**Claimant,**

**and**

**Case No. 98-01832  
(Consolidated with  
Case No. 98-00379 above)**

**American Asian Investment, Incorporated,  
Walter Chen and  
Pao-Shu Ho,**

**Respondents.**

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**REPRESENTATION OF PARTIES**

Claimants, Winnie Wing-Lai Ng and Shu Yau Yeung, Joint Tenants, and Wai-Yee were represented by Audley H. Heath, Esquire and Michael Donahue, Esquire, located in Houston, Texas.

Respondents, American Asian Investment, Incorporated and Pao Shu Gary Ho, were represented by Thomas H. Tucker, Esquire, located in Duxbury, Massachusetts.

Respondent, Walter Chen did file an Answer or Submission Agreement and did not appear at the hearing.

### **CASE INFORMATION**

In Case No. 98-00379, Claimants Winnie Wing-Lai Ng and Shu Yau Yeung, Joint Tenants' Statement of Claim was filed on or about January 15, 1998, and the Submission Agreement was signed by the Claimants on or about August 12, 1997. Claimants filed a First Amended Statement of Claim on or about March 17, 1999.

In Case No. 98-00379, Respondent American Asian Investment, Inc. filed a Statement of Answer on or about April 20, 1998, and an Amended Statement of Answer on or about April 1, 1999. The Submission Agreement of Respondent American Asian Investment, Incorporated was signed on April 16, 1998 by Gary Pao-Shu Ho, President.

In Case No. 98-01832, Claimant Wai-Yee Lau's Statement of Claim was filed on or about May 20, 1998, and the Submission Agreement was signed by the Claimant on or about April 10, 1998.

In Case No. 98-01832, Respondents, American Asian Investment, Incorporated, and Pao Shu Gary Ho filed a Joint Statement of Answer on or about April 20, 1998. Respondent American Asian Investment, Incorporated's Submission Agreement was signed on November 2, 1998 by Gary Ho, President. Respondent Pao-Shu Ho's Submission Agreement was signed on November 2, 1998.

### **HEARING INFORMATION**

A pre-hearing conference was held on October 15, 1998 for one (1) hearing session.

The hearing was held on April 6 and 7, 1999 in Houston, Texas for three (3) hearing sessions each day.

### **CASE SUMMARY**

Claimants Winnie Wing-Lai Ng, Shu Yau Yeung and Wai-Yee Lau alleged that they were inexperienced stock market investors who were deceived by Mr. Norman Wong, an officer/director/shareholder of the American Asian Investment, Incorporated, because he held himself out falsely as a stock broker. Claimants Wing-Lai NY and Shu Yau Yeung forwarded approximately \$210,000.00 to United States Clearing Corporation at the behest of Respondent's agent, Mr. Wong, and allegedly suffered compensatory damages of approximately \$121,000.00. Claimant Wai-Yee Lau sent approximately \$23,235.00 to United States Clearing Corporation at the direction of Respondent's agent, Mr. Wong, and allegedly suffered compensatory damages of approximately \$14,998.00. Claimants, Winnie Wing-Lai Ng and Shu Yau Yeung, and Claimant Wai-Yee Lau were charged \$34,012.00 and \$6,265.64 in churned commissions,

respectively, and \$14,085.00 and \$1,972.00 in margin interest charges, respectively. Additionally, Claimants alleged fraudulent activities involving misrepresentations and omissions of fact about the NASD registration status of Mr. Wong, a breach of a fiduciary duty owed to the Claimants by Mr. Wong, and the unsuitability of a margin trading strategy created by Mr. Wong for investors with little knowledge of stock market investing. Claimants further alleged failure to supervise and unsuitability for risking on margin over 50% of the Claimants' financial estate in the fortunes of a single stock, Micron Tech.

The Respondent denied all allegations of wrongdoing. Respondents maintained that American Asian Investment, Incorporated was a discount brokerage firm which did not conduct research of stocks nor did it recommend stocks to customers. Respondents stated that Claimants were responsible for and initiated all transactions in their account. Respondents contended that Claimants maintained other brokerage accounts and intentionally and knowingly carried out over a substantial period of time a calculated investment strategy of short-term trading in risky and highly volatile stocks. According to the Respondents, many stocks were first purchased by Claimants in accounts other than Claimants' American Asian accounts. Respondents asserted that Claimants were seeking to avoid responsibility for their own trading strategy and the results of market conditions. Respondents asserted many affirmative defenses including, but not limited to, failure to state a claim; Claimants ratified all of the transactions; the claims were barred by applicable statutes of limitations; and Claimants were estopped by their own actions from raising their claims against Respondents.

#### **RELIEF REQUESTED**

Claimants Winnie Wing-Lai Ng and Shu Yau Yeung, Joint Tenants requested an award of \$121,234.00 for compensatory damages based on the *out-of-pocket* measure for losses of investment capital forwarded to Mr. Wong by Claimants, along with \$34,012.00 for churned commissions, \$14,085.00 for margin interest charges and punitive damages in an undisclosed amount for fraud.

Claimant Wai-Yee Lau requested an award of \$ 14,998.00 for compensatory damages based on the *out-of-pocket* measure for losses of investment capital forwarded to Mr. Wong by Claimants, along with \$6,265.64.00 for churned commissions and \$1,972.00 for margin interest charges and punitive damages in an undisclosed amount for fraud.

Respondents, American Asian Investment, Inc. and Pao Shu Gary Ho requested that all claims be dismissed and that Claimants be found liable for all costs and attorneys' fees.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about August 14, 1998, Claimants Winnie Wing-Lai Ng and Shu Yau Yeung, and Wai-Yee Lau filed a Motion to Consolidate Case No. 98-00379 with Case No. 98-01832. On or about October 22, 1998, Claimants submitted a Amended Motion to Consolidate. Following their review of the Motions and Objections from Respondents, the undersigned Arbitrators granted the Amended Motion to Consolidate on or about November 25, 1998.

Claimants, Winnie Wing-Lai Ng and Shu Yau Yeung, Joint Tenants, filed a Motion for Leave to File a First Amended Statement of Claim on or about March 17, 1999. After careful consideration of the Motion and the Respondent's Objection, the undersigned Arbitrators granted the Motion on or about March 25, 1999.

Upon review of the file and the representations made by and on behalf of the Claimants, the undersigned Arbitrators determined that Respondent Walter Chen had been properly served with the Statement of Claim pursuant to Rule 10314 of the Code of Arbitration Procedure (the "Code"). The undersigned Arbitrators have also determined that Respondent Walter Chen received due notice of the hearing as required under Rule 10315 of the Code and that the arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent Walter Chen did not file with the NASD Regulation, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the Code and is bound by the determination of the arbitration panel on all issues submitted.

The parties present at the hearing agreed to receive conformed copies of the award while the original remains on file with the NASD Regulation, Inc.

#### **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. The claims of Claimants Winnie Wing-Lai Ng and Shu Yau Yeung, Joint Tenants, against Respondent American Asian Investment, Incorporated are denied in their entirety and dismissed with prejudice;
2. The claims of Claimant Wai-Yee Lau against Respondents American Asian Investment, Incorporated, Walter Chen and Pao-Shu Ho are denied in their entirety and dismissed with prejudice; and
3. Other than forum fees addressed below, all claims and relief requests not specifically awarded are denied in their entirety and dismissed with prejudice.

**FORUM FEES**

Forum fees are calculated at the rate of \$750.00 per hearing session. There were seven (7) hearing sessions x \$750.00 = \$5,250.00. Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the Code, the NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain as forum fees the hearing session deposit in the amount of \$750.00 previously deposited with the NASD Regulation, Inc. by Claimants Winnie Wing-Lai Ng and Shu Yau Yeung.

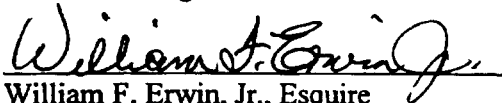
Pursuant to Rule 10332(c) of the Code, the NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$100.00 and shall retain as forum fees the hearing session deposit in the amount of \$300.00 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by Claimant Wai-Yee Lau.

Pursuant to Rule 10332(c) of the Code, Respondent American Asian Investment, Incorporated is liable for and shall pay to the NASD Regulation, Inc. the sum of \$4,200.00 in forum fees.

**Fees are payable to the NASD Regulation, Inc.**

Arbitrators' Signatures:

Dated:

  
William F. Erwin, Jr., Esquire  
Public Arbitrator, Presiding Chair

4-30-99

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Charles Martin, CPA  
Public Arbitrator, Panelist

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George H. Reisser  
Industry Arbitrator, Panelist

For NASD use only:  
Date served:

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Public Arbitrator, Presiding Chair

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Charles Martin, CPA  
Public Arbitrator, Panelist

~~Reiser~~ *George H. Reiser*  
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George H. Reiser  
Industry Arbitrator, Panelist

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Oct. 12, 1996

For NASD use only:  
Date served: