U.S. COMMODITY FUTURES TRADING COMMISSION
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Office of Proceedings

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BRYAN ROWDER, Complainant v. NATIONAL TRADING INSTITUTE, L.L.C., Respondent	CFTC Docket No. 02-R064 Served by Federal Express

FINAL DECISION

Complainant initiated this reparations case selecting a voluntary decisional proceeding, a choice concurred in by the respondents. In a voluntary proceeding, the parties submit their dispute on the papers only, waiving their right to present oral testimony. In addition, the judge is not authorized to conduct discovery on his own motion (see Rule 12.34), leaving the parties solely responsible for the development of the record. When the record is closed, the judge issues a Final Decision containing only a conclusion whether any violations of the Commodity Exchange Act have been proven, and, if so, a reparation award for any damages caused by such violations (see Rule 12.106(b)). The decision does not contain findings of fact or other evidentiary evaluations by the judge. The Final Decision is not appealable to the Commission or to any court.

In this matter, neither side took discovery or submitted additional statements as authorized by CFTC Rule 12.105. Upon careful consideration of the pleadings submitted by the parties, and the documentary exhibits attached thereto, it is concluded that complainant has established by a preponderance of the evidence that respondent fraudulently breached a promise to refund his funds. This fraudulent breach of promise violated Section 4o of the Commodity Exchange Act, applicable to respondent as a registered commodity trading advisor, and proximately caused complainant losses in the amount of the promised refund, $3,985. Accordingly, respondent National Trading Institute, L.L.C., is ORDERED to pay reparations to complainant in the amount of $3,985.00, plus costs (filing fee) of $50.00.

Dated: January 22, 2003

Joel R. Maillie
JOEL R. MAILLIE
Judgment Officer