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| In the Matter of Arbitration:              | ) |
|  | ) |
| Chris O'Donnell and Aaron Vasil, Claimants | ) |
| ( <i>pro se</i> )                          | ) |
|  | ) |
| v.   | ) |
|  | ) |
| KWS Associates, Inc. and Thomas Williams,  | ) |
| Respondents                                | ) |
| ( <i>pro se</i> )                          | ) |

CHX-A-07-06

**DECISION**

The Chicago Stock Exchange, Incorporated ("Exchange"), pursuant to Article 14, Rule 2, Section 28 of the Rules of the Exchange, herein sets forth the Decision of the Arbitration Panel in the above-captioned matter.

**I.  
Background**

On June 27, 2006, an arbitration claim was filed with the Exchange by Chris O'Donnell ("O'Donnell"), a former Participant of the Exchange, against former Exchange Participants KWS Associates, Inc. ("KWS") and Thomas Williams ("Williams").<sup>1</sup>

On June 28, 2006, an arbitration claim was filed with the Exchange by Aaron Vasil ("Vasil"), a former Participant of the Exchange, against former Exchange Participants KWS and Williams.<sup>1</sup>

Pursuant to Exchange Article 14, Rule 2, Section 13(d), (3) and (4) the claims of O'Donnell and Vasil were consolidated for hearing and award purposes.

In accordance with Exchange Article 14, Rule 1(a) an Arbitration Panel was constituted from the Exchange's Committee on Exchange Procedure. The Arbitrators selected to serve on the Panel were: Scott Freyn, David Herron and Joseph Waldusky.

<sup>1</sup> The Claimants and the Respondents were Exchange Participants at the time of the events giving rise to the arbitration claims in question.

A hearing was conducted in accordance with Exchange Article 14, Rule 2. The hearing was conducted on June 5, 2007 at the offices of the Exchange located at 440 South LaSalle Street, Room 810A, Chicago, Illinois 60605.

All parties received a full and fair opportunity to be heard.

The record of the proceedings was closed on July, 2, 2007.

## **II. Claims**

The claim filed with the Exchange by O'Donnell involved the partial non-payment of a subordinated loan executed by O'Donnell and KWS on September 15, 2002 in the amount of \$100,000, which expired on September 15, 2005. Partial repayment of the loan was made to O'Donnell by KWS in the amount of \$50,000.

O'Donnell requested the entry of an award against KWS and Williams in the amount of \$52,250, representing the unpaid balance of the loan in the amount of \$50,000 and interest<sup>2</sup> in the amount of \$2,250.

The claim filed with the Exchange by Vasil involved the partial non-payment of a subordinated loan executed by Vasil and KWS on September 16, 2002 in the amount of \$100,000, which expired on September 16, 2005. Partial repayment of the loan was made in the amount of \$50,000.

Vasil requested in the entry of an award against KWS and Williams in the amount of \$52,250, representing the unpaid balance of the loan in the amount of \$50,000 and interest<sup>1</sup> in the amount of \$2,250.

## **III. Decision**

On July 2, 2007 the Arbitrators unanimously reached a decision and determined the full and final resolution to the claims filed by O'Donnell and Vasil against KWS.

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<sup>2</sup> The subordinated loan sets forth an interest rate of 6% annually.

The Arbitrators determined that the subordinated loans executed by O'Donnell and Vasil with KWS shall not take priority over the outstanding non-subordinate loans of KWS. The subordinated loans executed by the Claimants with KWS shall be repaid in full based upon the terms set forth in the subordinated loan agreements. Specifically, Section V. of the Cash Subordinated Loan Agreements states: "The Lender irrevocably agrees that the obligations of the Broker or Dealer under this Agreement with respect to the payment of principal and interest are and shall be subordinate in right of payment and subject to the prior payment or provision for payment in full of all claims of all other present and future creditors of the Broker or Dealer..."

The Arbitrators reaffirm that the subordinated loans executed by O'Donnell and Vasil with KWS are valid, and that KWS is liable to O'Donnell and Vasil for the repayment of the subordinated loans based upon terms of the Cash Subordinated Loan Agreements.

On July 2, 2007 the Arbitrators unanimously reached a decision and determined the full and final resolution to the claims filed by O'Donnell and Vasil against Williams.

The Arbitrators determined that the subordinated loans were executed by the Claimants and KWS, not Williams. The arbitration claims filed by O'Donnell and Vasil against Williams are dismissed with prejudice.

This Decision is final and not subject to appeal to the Exchange.

By:   
Scott Freyn

Date: 7/9/07

By:   
David Herron

Date: 7/6/07

Signatories continue on Page 4.

By: Joseph Waldusky  
Joseph Waldusky

Date: 7/9/07

This instrument was acknowledged before on Date: 7/9/07

By: Michele L. Wisor  
print name

Michele L. Wisor  
signature



State of Illinois, County of Cook.

Seal