The Principle of Compatibility in Soliciting Stock Investment
Judgment of the Supreme Court, 14 July 2005

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The plaintiff is a company whose business is the processing and wholesaling of fish in a regional fish market. It was set up as a result of the amalgamation of five existing wholesale companies, with a capital of 120 million yen, in 1984. The annual turnover is between 20-30 billion yen. The company was given a low-interest loan from the local government. The management decided to invest *part* of this loan which was not in use. The investment began with the opening of an account with the defendant, a major securities company, and the placing of 500 million yen in 1984.

Persons within the company who were managing the investment were the president and the managing director. The former, by 1983, was experienced in investment in stocks including trading on credit, futures trading and trading in warrant bonds. The latter had general knowledge and experience of stock trading.

Transactions involving the plaintiff's account encompassed not only real stocks, but also trading in government bond futures, foreign currency denominated warrant bond futures, and stock futures. The total value of transactions reached 20-40 billion yen annually.

In 1989, trading in Nikkei Stock Index Options, which is a stock price index options trade, began at the Osaka Stock Exchange. The employee who represented the defendant in relation to the plaintiff at that time explained the system of trading to the people in the plaintiff company and informed them that while the loss, when buying options, is limited to the amount of investment, when selling options, the loss can be indefinite. The plaintiff decided to commence stock price index option trading. In the first round of transactions, the plaintiff made a loss and decided to ceased trading. The transaction was renewed later, and after 10 transactions, some profits were made, but trading was again terminated due to the illness of the representative of the defendant.

The share prices sharply fell in 1990, and as a result, the plaintiff suffered unrealised loss exceeding one billion yen. In order to regain profits under such circumstances, the plaintiff resumed trading in stock price index options. When the plaintiff lost 20 million yen, the trading was again terminated. In 1992, when the representative of the defendant changed, the trading was resumed. There were 199 transactions altogether and the plaintiff incurred a loss of 200 million yen.