

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Interactive Brokers LLC

Case Number: 19-02299

vs.

Respondent
Auguste Capital Partners, LP

Hearing Site: New York, New York

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Member vs. Customer

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Interactive Brokers LLC: Daniel A. Spector, Esq., Interactive Brokers LLC, Washington, District of Columbia.

For Respondent Auguste Capital Partners, LP: Leon Baer Borstein, Esq., Borstein Turkel PC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 14, 2019.

Answer to Counterclaim filed on or about October 23, 2019.

Interactive Brokers LLC signed the Submission Agreement: August 14, 2019.

Statement of Answer and Counterclaim filed by Respondent on or about: October 3, 2019.

Auguste Capital Partners, LP signed the Submission Agreement: October 3, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following cause of action: breach of contract. The cause of action relates to Respondent's trading in Sotheby's ("BID") stock options on margin.

Unless specifically admitted in the Statement of Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Counterclaim, Respondent asserted the following cause of action: gross negligence.

Unless specifically admitted in the Answer to the Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$433,352.27 for the unpaid account deficit in Respondent's account, plus interest, attorneys' fees and all costs incurred in bringing this arbitration.

In the Statement of Answer and Counterclaim, Respondent requested an award in favor of Respondent on all claims asserted in Claimant's Statement of Claim; \$621,521.00 in damages; pre and post-award interest, costs and fees, including attorneys' fees and any other relief to which it may be entitled.

In the Answer to the Counterclaim, Claimant requested that the Counterclaim be denied in its entirety and Claimant's claim as set forth in the Statement of Claim be granted.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On December 28, 2020, Claimant filed a Motion for Sanctions for Respondent's failure to comply with Discovery Order. Respondent did not file an opposition to Claimant's Motion for Sanctions. By Order dated January 6, 2021, the Panel denied the Motion for Sanctions.

The Award in this matter may be executed in counterpart copies.

AWARD

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

1. Respondent is liable for and shall pay to Claimant the sum of \$441,423.48 in compensatory damages.
2. Respondent's Counterclaim is denied in its entirety.
3. Respondent is liable for and shall pay to Claimant \$1,000.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.

Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure (“Code”), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	=\$ 2,125.00
Counterclaim Filing Fee	=\$ 1,725.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Claimant Interactive Brokers LLC is assessed the following:

Member Surcharge	=\$ 1,900.00
Member Process Fee	=\$ 5,075.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

January 12-14, 2021, postponement requested by Respondent	=\$ 1,300.00
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Total Postponement Fees	=\$ 1,300.00
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The Panel has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

January 12-14, 2021, cancellation requested by Respondent	=\$ 1,800.00
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Total Last-Minute Cancellation Fees	=\$ 1,800.00
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The Panel has assessed the total last-minute cancellation fees to Respondent.

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with the Panel @ \$600.00/decision	=\$ 600.00
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Claimant submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	=\$ 600.00
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The Panel has assessed the total discovery-related motion fees to Respondent.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: November 11, 2020	1 session	
Four (4) pre-hearing sessions with the Panel @ \$1,300.00/session	= \$	5,200.00
Pre-Hearing Conferences: January 6, 2020	1 session	
February 25, 2020	1 session	
December 11, 2020	1 session	
February 9, 2021	1 session	
Four (4) hearing sessions @ \$1,300.00/session	= \$	5,200.00
Hearings: March 12, 2021	2 sessions	
March 15, 2021	2 sessions	
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Total Hearing Session Fees	= \$	10,850.00

The Panel has assessed \$1,950.00 of the hearing session fees to Claimant.

The Panel has assessed \$8,900.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Amy Jill Baranoff	-	Public Arbitrator, Presiding Chairperson
Alejandro Miguel Garro	-	Public Arbitrator
Gerald H. Grayson	-	Public Arbitrator

I, the undersigned Arbitrator, 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.

Concurring Arbitrators' Signatures

Amy Jill Baranoff

Amy Jill Baranoff
Public Arbitrator, Presiding Chairperson

03/25/2021

Signature Date

Alejandro Miguel Garro

Alejandro Miguel Garro
Public Arbitrator

03/24/2021

Signature Date

Gerald H. Grayson

Gerald H. Grayson
Public Arbitrator

03/24/2021

Signature Date

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March 25, 2021

Date of Service (For FINRA Dispute Resolution Services use only)