

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Sarah Ihrie

Case Number: 19-02917

vs.

Respondents  
Interactive Brokers LLC  
Joshua Label  
Vita Intellectus, LLC

Hearing Site: Seattle, Washington

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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: Customer vs. Member and Non-Members

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Sarah Ihrie (“Claimant”): Mark C. Santi, Esq., Santi Cerny, PLLC, Minneapolis, Minnesota.

For Respondent Interactive Brokers LLC (“Interactive Brokers”): Christian Kemnitz, Esq. and David Luger, Esq., Katten Muchin Rosenman LLP, Chicago, Illinois.

Respondent Joshua Label (“Label”) appeared pro se.

For Respondent Vita Intellectus, LLC (“Vita Intellectus”): Joshua Label, Vita Intellectus, LLC, Bellevue, Washington.

Hereinafter, Interactive Brokers, Label, and Vita Intellectus are collectively referred to as “Respondents”.

**CASE INFORMATION**

Statement of Claim filed on or about: September 27, 2019.

Amended Statement of Claim filed on or about: December 30, 2019.

Claimant signed the Submission Agreement: September 26, 2019.

Statement of Answer and Crossclaim Against Vita Intellectus filed by Interactive Brokers on or about: February 13, 2020.

Interactive Brokers signed the Submission Agreement: February 13, 2020.

Statement of Answer filed by Label and Vita Intellectus on or about: December 6, 2019.

Answer to Claimant's Amended Statement of Claim filed by Label and Vita Intellectus on or about: August 28, 2020.

Answer to Interactive Brokers' Crossclaim filed by Label and Vita Intellectus on or about: August 28, 2020.

Label and Vita Intellectus signed the Submission Agreement: October 2, 2019.

### **CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; violation of the Securities Act of Washington; negligence; violation of the Washington Consumer Protection Act; violations of Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10B-5; fraud; and vicarious liability. The causes of action relate to losses Claimant allegedly incurred in two individual accounts due to the actions of Label and Vita Intellectus.

In the Statement of Answer, Label and Vita Intellectus denied the allegations made in the Statement of Claim.

In the Amended Statement of Claim, Claimant added Interactive Brokers as a named Respondent to the case and asserted the following causes of action: breach of fiduciary duty (as to Label and Vita Intellectus); violation of the Securities Act of Washington (as to Respondents); negligence (as to Respondents); violation of the Washington Consumer Protection Act (as to all Respondents); violations of Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10B-5 (as to all Respondents); fraud (as to Label and Vita Intellectus); vicarious liability (as to Vita Intellectus); aiding and abetting breach of fiduciary duty (as to Interactive Brokers); aiding and abetting common law fraud (as to Interactive Brokers); violation of FINRA rules (as to Interactive Brokers); and breach of contract (as to Respondents). The causes of action relate to Respondents' actions which led to the losses Claimant allegedly incurred in her two individual accounts.

In the Statement of Answer, Interactive Brokers denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

In the Crossclaim against Vita Intellectus, Interactive Brokers asserted indemnity as its sole cause of action. The cause of action relates to Interactive Brokers' "Agreement for Advisors Providing Services to Interactive Brokers Customers", which Vita Intellectus allegedly entered into with Interactive Brokers.

In the Answer to Claimant's Amended Statement of Claim, Label and Vita Intellectus denied the allegations made in the Amended Statement of Claim and asserted various affirmative defenses.

In the Answer to Interactive Brokers' Crossclaim, Label and Vita Intellectus denied the allegations made in the Crossclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Amended Statement of Claim, Claimant requested:

1. Actual damages to be proven at final hearing;
2. Treble damages under the Consumer Protection Act;
3. Pre-judgment interest at the statutory rate of 12%, or alternatively, 8% per annum under the Revised Code of Washington (“RCW”) 21.20.010 or well-invested portfolio damages;
4. Pre-judgment interest against Interactive Brokers at the rate of 9% per annum under Civil Practice Law and Rules (“CPLR”) §5004;
5. Post-judgment interest;
6. Costs;
7. Attorneys’ fees under applicable law such as RCW 21.20.430 and RCW 19.89.090; and
8. Such other and further relief as the Panel deems just and equitable.

In the Statement of Answer and Crossclaim Against Vita Intellectus, Interactive Brokers requested:

1. Claimant’s claims against Interactive Brokers for damages, attorneys’ fees and costs are wholly without merit and should be denied; and
2. Additional relief as the Panel deems just and proper.

In the Statement of Answer, Label and Vita Intellectus did not set forth specific relief requests.

In the Answer to Claimant’s Amended Statement of Claim, Label and Vita Intellectus requested:

1. Claimant’s claims be denied and dismissed, including all claims for damages, attorneys’ fees and costs; and
2. Such other and further relief as the Panel may deem just and appropriate.

In the Answer to Interactive Brokers’ Crossclaim, Label and Vita Intellectus requested:

1. Interactive Brokers’ claims be denied and dismissed, including all claims for damages, attorneys’ fees and costs; and
2. Such other and further relief as the Panel may deem just and appropriate.

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

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

Vita Intellectus is an Investment Adviser firm and Label is an Investment Adviser. Vita Intellectus and Label are not members or associated persons of FINRA. Vita Intellectus and Label voluntarily submitted the present matter in controversy to arbitration in accordance with the FINRA By-Laws, Rules and Code of Arbitration Procedure (“Code”) by filing an executed post-dispute submission agreement for cases involving Investment Advisers who are not FINRA-regulated firms. Vita Intellectus and Label are bound by the determination of the Panel on all issues submitted.

On October 30, 2020, Label filed for bankruptcy under the United States Bankruptcy Code. In accordance with these filings, all claims against Label are indefinitely stayed. Therefore, the Panel made no determination with respect to the claims against Label.

Vita Intellectus did not appear at the evidentiary hearing. Upon review of the file, the Panel determined that Vita Intellectus received due notice of the hearing and that arbitration of the matter would proceed without Vita Intellectus present, in accordance with the Code.

### **FINDINGS**

Claimant sought no relief against Label individually, given that Label filed for protection under the U.S. Bankruptcy Code. The Panel finds that Claimant was victimized by her financial advisor, Label and Vita Intellectus. But the Panel determines that Claimant did not sustain her burden of proof as to her claims against Interactive Brokers.

The Panel further finds that Interactive Brokers filed a Crossclaim against Vita Intellectus for indemnification in the event that Interactive Brokers is held liable to Claimant. Given the Panel's decision in this matter, Interactive Brokers' Crossclaim is moot.

### **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. Vita Intellectus is liable for and shall pay to Claimant the sum of \$422,000.00 in compensatory damages pursuant to RCW 19.96.090.
2. Vita Intellectus is liable for and shall pay to Claimant the sum of \$25,000.00 in treble damages pursuant to RCW 19.96.090.
3. Vita Intellectus is liable for and shall pay to Claimant interest on the above-stated sum of \$447,000.00 at the rate of 8% per annum from February 12, 2021 until the Award is fully paid.
4. Vita Intellectus is liable for and shall pay to Claimant \$68,500.00 in pre-award interest;
5. Vita Intellectus is liable for and shall pay to Claimant the sum of \$7,500.00 in costs for expert witness fees.
6. Vita Intellectus is liable for and shall pay to Claimant the sum of \$141,000.00 in attorneys' fees pursuant to RCW 21.20.430 and RCW 19.86.090.
7. Claimant's claims against Interactive Brokers is denied.
8. Interactive Brokers' Crossclaim is denied as moot.
9. Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

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

Initial Claim Filing Fee	= \$	1,575.00
Cross Claim Filing Fee	= \$	1,700.00

*\*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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute.

Claimant, Label and Vita Intellectus executed a post-dispute submission agreement provided that non-member Vita Intellectus is assessed the following:

Member Surcharge	= \$	950.00
Member Process Fee	= \$	1,875.00

Accordingly, as a party, Interactive Brokers is assessed the following:

Member Surcharge	= \$	1,900.00
Member Process Fee	= \$	3,750.00

**Discovery-Related Motion Fees**

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

Two (2) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	400.00
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Two (2) decisions on discovery-related motions on the papers with the Panel @ \$600.00/decision	= \$	1,200.00
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Claimant submitted three (3) discovery-related motions  
Interactive Brokers submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$	1,600.00
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The Panel has assessed \$800.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$600.00 of the discovery-related motion fees to Vita Intellectus.

The Panel has assessed \$200.00 of the discovery-related motion fees jointly and severally to Vita Intellectus and Interactive Brokers.

**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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: March 17, 2020	1 session	
January 14, 2021	1 session	

Seven (7) hearing sessions @ \$1,125.00/session	= \$	7,875.00
Hearings: February 8, 2021	2 sessions	
February 9, 2021	2 sessions	
February 10, 2021	2 sessions	
February 11, 2021	1 session	

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Total Hearing Session Fees	= \$	10,125.00
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The Panel waived \$1,125.00 of the hearing session fees.

The Panel has assessed \$3,000.00 of the hearing session fees to Claimant.

The Panel has assessed \$3,000.00 of the hearing session fees to Vita Intellectus.

The Panel has assessed \$3,000.00 of the hearing session fees to Interactive Brokers.

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

**ARBITRATION PANEL**

John M. Casey	-	Public Arbitrator, Presiding Chairperson
G. E. Craig Doupe	-	Public Arbitrator
David E. Crowe	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

**Concurring Arbitrators' Signatures**

***John M. Casey***

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John M. Casey  
Public Arbitrator, Presiding Chairperson

***02/22/2021***

\_\_\_\_\_  
Signature Date

***G. E. Craig Doupe***

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G. E. Craig Doupe  
Public Arbitrator

***02/19/2021***

\_\_\_\_\_  
Signature Date

***David E. Crowe***

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David E. Crowe  
Non-Public Arbitrator

***02/19/2021***

\_\_\_\_\_  
Signature Date

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February 22, 2021

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