

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
ChoiceTrade

Case Number: 20-02321

vs.

Respondent
Precision Securities, LLC

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. Member

REPRESENTATION OF PARTIES

For Claimant ChoiceTrade: Neville Golvala, CCO, ChoiceTrade, San Juan, Puerto Rico.

For Respondent Precision Securities, LLC: Heather B. Middleton, Esq., Murphy & McGonigle, PC, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: July 22, 2020.
Reply to Statement of Answer filed on or about: October 19, 2020.
ChoiceTrade signed the Submission Agreement: July 22, 2020.

Statement of Answer filed by Respondent on or about: October 8, 2020.
Precision Securities, LLC signed the Submission Agreement: October 7, 2020.

CASE SUMMARY

Claimant asserted the following causes of action: negligence; violation of Rule 10b-5; failure to supervise; and gross negligence.

The causes of action relate to unauthorized stock trades.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$175,695.42; interest at 9% per annum on the outstanding balance, beginning April 20, 2016; punitive damages equal to three times compensatory damages; cost of prosecuting this claim, all FINRA fees and other costs; and such other relief as the arbitrators deem just and equitable.

In the Statement of Answer, Respondent requested that Claimant's claims are denied and dismissed with prejudice; all arbitration costs assessed against Claimant; and Respondent be awarded attorneys' fees, costs and expenses associated with this arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 13, 2020, Respondent Precision Securities, LLC filed a Motion to Dismiss pursuant to Rule 13504 of the Code of Arbitration Procedure ("Code") ("Motion to Dismiss"). On November 25, 2020, Claimant filed a response opposing the Motion to Dismiss. On December 1, 2020, Respondent filed a reply in further support of the Motion to Dismiss.

On December 16, 2020, the Panel heard oral arguments on the Motion to Dismiss. On January 12, 2021, the Panel granted the Motion to Dismiss on the grounds that:

The Claimant in this matter was the victim of cybercriminals who hacked into several of their customers' accounts and conducted a number of trades which resulted in losses to these accounts. The Respondent was likewise the victim of fraud in which a party, using a false identity, opened an account, funded it, conducted a number of generally profitable trades, and withdrew funds from the account. Many of the trades in this account were involving the same securities as those in the accounts at the Claimant's firm which resulted in losses.

The Respondent here is a direct access broker which provides a trading platform for experienced traders. The Respondent uses Vision Financial Markets LLC as an introducing/clearing arranger for them to execute and clear trades. An individual using a name (the SEC concluded they could not prove this was the individual involved in the account) opened a self-directed online trading account at Respondent which was funded and engaged in trading activity, resulting in profits, some of which were withdrawn and sent to a bank account in the same individual's name. The account was opened in typical fashion with a questionnaire filled out, two forms of identification provided, and background checks performed. The account was self-directed, there was no financial advisor for the account, no assistance, guidance or advice was provided to the account holder and the account entered its own trades. The activity in the account did not raise any concerns.

The basis to grant the Motion to Dismiss requires that the Panel find the Respondent was not associated with the accounts at the Claimant. There has not been any evidence provided that Respondent was in anyway associated with the accounts at Claimant that were fraudulently traded. In fact, there is no showing that the Respondent was even aware of the Claimant or the accounts held there. Secondly, there has been no showing that the Respondent was associated or aware of the securities involved in this matter. As has been stated the Respondent did not

advise or engage in any of the activity or selection of securities traded in the account at their firm, or the decisions to withdrawn funds from the account. Finally, no connection between the Respondent and the activity that occurred at the Claimant's firm has been shown.

Based on the above, pursuant to Rule 13504(a)(7), it is the unanimous decision of the Panel that the Respondent's Motion to Dismiss is granted.

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. Claimant's claims are dismissed in their entirety with prejudice.
2. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees and costs 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 = \$ 2,550.00

**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 firms that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as parties, ChoiceTrade and Precision Securities, LLC are each assessed the following:

Member Surcharge = \$ 2,475.00
Member Process Fee = \$ 5,075.00

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 Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with the Panel @ \$1,300.00/session = \$ 2,600.00
Pre-hearing Conferences: November 16, 2020 1 session
December 16, 2020 1 session

Total Hearing Session Fees = \$ 2,600.00

The Panel has assessed \$1,300.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,300.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

John B. Myers	-	Non-Public Arbitrator, Presiding Chairperson
Joel Levinson	-	Non-Public Arbitrator
Joan Ellen Hoffman	-	Non-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

John B. Myers

John B. Myers
Non-Public Arbitrator, Presiding Chairperson

01/15/2021

Signature Date

Joel Levinson

Joel Levinson
Non-Public Arbitrator

01/14/2021

Signature Date

Joan Ellen Hoffman

Joan Ellen Hoffman
Non-Public Arbitrator

01/15/2021

Signature Date

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January 20, 2021

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