

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

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In the Matter of the Arbitration Between:

Claimant  
FPP CIS Opportunities Fund, L.P.

Case Number: 20-02623

vs.

Respondent  
Interactive Brokers, LLC

Hearing Site: New York, New York

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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

This case was decided by a majority-public panel.

**REPRESENTATION OF PARTIES**

For Claimant FPP CIS Opportunities Fund, L.P. (“FPP”): Samuel J. Lieberman, Esq., Sadis & Goldberg, LLP, New York, New York.

For Respondent Interactive Brokers, LLC: David Luger, Esq., and Christian T. Kemnitz, Esq., Katten Muchin Rosenmann LLP, Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: August 14, 2020.  
FPP signed the Submission Agreement: August 14, 2020.

Statement of Answer filed by Respondent on or about: October 6, 2020.  
Interactive Brokers, LLC signed the Submission Agreement: October 7, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duties; fraudulent concealment of material information; gross negligence; negligent misrepresentation; and violation of FINRA Rule 2010. The causes of action relate to May 2020 West Texas Intermediate Futures contracts.

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 of at least \$3,918,040.00; pre-judgment interest at the 9% per annum New York statutory rate; reasonable attorney's fees, expert witness expenses, costs, expenses, and FINRA filing fees; and such additional relief as the arbitration Panel deems proper.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied in its entirety.

At the close of hearings, in addition to restating its request for damages of \$3,918,040.00, plus pre-judgment interest of 9% per annum, Claimant presented several alternative damages computations.

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

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

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, 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 \$1,881,500.00 in compensatory damages.
2. 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	= \$ 2,000.00
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*\*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 events giving rise to the dispute. Accordingly, as a party, Respondent Interactive Brokers, LLC is assessed the following:

Member Surcharge	= \$	3,025.00
Member Process Fee	= \$	6,175.00

**Discovery-Related Motion Fees**

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

Three (3) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	600.00
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One (1) decision on discovery-related motions on the papers with the Panel @ \$600.00/decision	= \$	600.00
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Claimant submitted one (1) discovery-related motion  
Respondent submitted three (3) discovery-related motions

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Total Discovery-Related Motion Fees	= \$	1,200.00
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The Panel has assessed \$500.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$700.00 of the discovery-related motion fees to Respondent.

**Contested Motion for Issuance of Subpoena Fees**

Fees apply for each decision on a contested motion for the issuance of a subpoena.

Two (2) decisions on contested motions for the issuance of a subpoena with one Arbitrator @ \$200.00	= \$	400.00
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Total Contested Motion for Issuance of Subpoena Fees	= \$	400.00
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The Panel has assessed \$200.00 of the contested motion for issuance of subpoena fees to Claimant.

The Panel has assessed \$200.00 of the contested motion for issuance of subpoena 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:

Seven (7) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$	3,150.00
Pre-Hearing Conferences: June 9, 2021	1 session	
June 15, 2021	1 session	
June 17, 2021	1 session	
June 23, 2021	1 session	
June 25, 2021	1 session	
June 28, 2021	1 session	
July 1, 2021	1 session	

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	4,200.00
Pre-Hearing Conferences: December 1, 2020	1 session	
July 8, 2021	1 session	
August 19, 2021	1 session	

Thirteen (13) hearing sessions @ \$1,400.00/session	= \$	18,200.00
Hearings: August 23, 2021	2 sessions	
August 24, 2021	2 sessions	
August 25, 2021	2 sessions	
August 26, 2021	2 sessions	
August 27, 2021	3 sessions	
August 30, 2021	2 sessions	

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Total Hearing Session Fees	= \$	25,550.00
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The Panel has assessed \$12,775.00 of the hearing session fees to Claimant.

The Panel has assessed \$12,775.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Judith C. Zerden	-	Public Arbitrator, Presiding Chairperson
Lawrence Williams	-	Public Arbitrator
Kinchen C. Bizzell	-	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**

***Judith C. Zerden***

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Judith C. Zerden  
Public Arbitrator, Presiding Chairperson

**09/14/2021**

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

***Lawrence Williams***

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Lawrence Williams  
Public Arbitrator

**09/15/2021**

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

***Kinchen C. Bizzell***

\_\_\_\_\_  
Kinchen C. Bizzell  
Non-Public Arbitrator

**09/14/2021**

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

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September 16, 2021

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