

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
ChoiceTrade

Case Number: 20-02945

vs.

Respondent
Yulier Machado

Hearing Site: Dallas, Texas

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 matter proceeded pursuant to Rule 12800 of the Code of Arbitration Procedure (“Code”).

REPRESENTATION OF PARTIES

For Claimant ChoiceTrade (“Claimant”): Neville Golvala, CCO, ChoiceTrade, San Juan, Puerto Rico.

For Respondent Yulier Machado (“Respondent”): Hossameldin O. Abdelkarim, Esq., H. Karim & Associates, Washington, District of Columbia.

CASE INFORMATION

Statement of Claim filed on or about: September 2, 2020.

Claimant signed the Submission Agreement: September 2, 2020.

Statement of Answer to the Counterclaim filed on or about: November 30, 2020.

Statement of Answer and Counterclaim filed on or about: November 20, 2020.

Respondent signed the Submission Agreement: November 13, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract and gross negligence. The causes of action relate to Claimant’s allegation that Respondent sold his position in Direxion Daily S&P Oil & Gas Exp. & Prod. Bull 3X ETF (“GUSH”) the day after GUSH’s reverse stock split became effective, prior to the clearing firm adjusting the shares to account for the reverse stock split. Claimant further alleges that, as a result, Respondent held an illegal short (negative stock) position in his account and Claimant used its own funds to reimburse the clearing firm for the losses caused by the transaction.

Unless specifically admitted in the Statement of Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim and asserted various defenses. Respondent asserted the following causes of action: failure to comply with FINRA Rule 2010 leading to failure to delivery prospectuses to Respondent on a timely basis; gross negligence; failure to supervise and abide by FINRA Rule 2090; and failure to abide by FINRA Rules 2360 and 2111. The causes of action relate to Respondent's allegation that Claimant has attempted to shift its burden to comply with FINRA's rules to him.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested damages in the amount of \$13,532.00; interest at 9% per annum on the outstanding balance, beginning March 25, 2020; its cost of prosecuting this claim, all FINRA fees, and other costs; and such other relief as the Arbitrator deems just and equitable.

In the Statement of Answer and Counterclaim, Respondent requested damages in the amount of \$8,272.45, interest at the rate of 9% annually for the period starting from March 24, 2020 until the date of the award, forum fees and FINRA fees, any other costs incurred by Respondent in the course of arbitrating this case, punitive damages, and any other damages that the Arbitrator may consider just and equitable.

In the Statement of Answer to the Counterclaim, Claimant reasserted its request for relief as stated in its Statement of Claim and requested denial of Respondent's Counterclaim and dismissal of the same with prejudice; costs, including time for defending the Counterclaim; and such other relief as the Arbitrator deems just and equitable.

In Claimant's written Closing Argument, it requested \$9,690.00 in costs.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

AWARD

After considering the pleadings, the Arbitrator has decided and determined 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 \$13,532.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 6% per annum from thirty days after March 25, 2020, through and including the date the Award is paid in full.
3. Respondent is liable for and shall pay to Claimant the sum of \$8,190.00 in costs.

4. Respondent's Counterclaim is denied.
5. FINRA Dispute Resolution Services shall retain the \$1,050.00 filing fee that Claimant deposited previously.
6. Respondent is liable for and shall pay to Claimant the sum of \$1,050.00 as reimbursement for the filing fee that Claimant deposited previously.
7. FINRA Dispute Resolution Services shall retain the \$325.00 filing fee that Respondent deposited previously.
8. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, Claimant has paid to FINRA Dispute Resolution Services the \$450.00 Member Surcharge previously invoiced.

ARBITRATOR

Arthur H. Geffen

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Sole 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.

Arbitrator's Signature

Arthur H. Geffen

Arthur H. Geffen
Sole Public Arbitrator

01/29/2021

Signature Date

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January 29, 2021

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