

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Gabriel Ivan

Case Number: 20-04176

vs.

Respondent
Interactive Brokers 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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Gabriel Ivan appeared pro se.

For Respondent Interactive Brokers LLC: Carlos E. Provencio, Esq., Interactive Brokers LLC, Washington, District of Columbia.

CASE INFORMATION

Statement of Claim filed on or about: December 28, 2020.
Reply to the Statement of Answer filed on or about: March 10, 2021.
Gabriel Ivan signed the Submission Agreement: December 24, 2020.

Statement of Answer filed by Respondent on or about: February 18, 2021.
Interactive Brokers LLC signed the Submission Agreement: February 18, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: gross negligence; willful misconduct; conversion; breach of contract; promissory estoppel; negligence; violation of Sections 1-304, 8-504, 8-506, 8-507, and 8-508 of the New York Uniform Commercial Code; violation of Sections 4, 98, 100, 101, and 102 of the Ontario Securities Transfer Act; violation of Section 78o of the Securities Exchange Act and Rule 10b-3 thereunder; violation of Rule 15c3-3

of the Securities Exchange Act; and violation of FINRA Rules 2010, 2020, 3110, and 3260. The causes of action relate to Marret High-Yield Strategies Fund (“MHY”) and Marret Multi-Strategy Income Fund (“MMF”) mutual funds.

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 an award: finding that Respondent violated federal securities laws and rules promulgated thereunder, the New York Uniform Commercial Code, the Ontario Securities Transfer Act and FINRA Rules; ordering that Claimant’s securities entitlements with respect to MHY and MMF are re-established, and to pay or credit any payments or distributions that Claimant will not receive as a result of the wrongful liquidations, until the MHY and MMF securities are cancelled by their issuer; forum costs; and granting such other and further relief as deemed just and proper.

In the Statement of Answer, Respondent requested that the Statement of Claim be denied, and for such relief deemed just and proper.

At the hearing, Claimant requested: \$858,530.00 in compensatory damages plus interest; and \$100,000.00 in punitive damages.

OTHER ISSUES CONSIDERED AND DECIDED

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

On June 22, 2021, Claimant filed a Motion for Summary Judgment. On July 7, 2021, Respondent filed a response opposing the Motion for Summary Judgment. On July 9, 2021, Claimant filed a Reply in support of the Motion for Summary Judgment and on July 12, 2021, Respondent filed a Sur-Reply. By Order dated July 20, 2021, the Panel denied the Motion for Summary Judgment.

On January 14, 2022, Claimant filed a Motion for Sanctions. On January 21, 2022, Respondent filed a response opposing the Motion for Sanctions. On January 23, 2022, Claimant filed a Reply in support of the Motion for Sanctions. By Order dated January 26, 2022, the Panel denied the Motion for Sanctions.

On January 15, 2022, Claimant filed a Motion for Videoconference Hearing. On January 26, 2022, Respondent filed a response not opposing the motion. By Order dated February 11, 2022, the Panel granted the Motion for Videoconference Hearing.

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. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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 = \$ 1,575.00

**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 events giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

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 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: December 21, 2021 1 session

One (1) pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conferences: April 21, 2021 1 session

Five (5) hearing sessions @ \$1,125.00/session = \$ 5,625.00
Hearings: February 22, 2022 2 sessions
February 23, 2022 1 session
February 24, 2022 2 sessions

Total Hearing Session Fees = \$ 7,200.00

The Panel has assessed \$3,600.00 of the hearing session fees to Claimant.

The Panel has assessed \$3,600.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Richard Gee	-	Public Arbitrator, Presiding Chairperson
Susan Romano	-	Public Arbitrator
Stephen T Schreiber	-	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

Richard Gee

Richard Gee
Public Arbitrator, Presiding Chairperson

03/01/2022

Signature Date

Susan Romano

Susan Romano
Public Arbitrator

03/01/2022

Signature Date

Stephen T Schreiber

Stephen T Schreiber
Public Arbitrator

03/01/2022

Signature Date

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.

March 02, 2022

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