

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Yiqun Lu

Case Number: 21-00674

vs.

Respondents
Futu Clearing Inc
Interactive Brokers Corp.
Interactive Brokers LLC
Wing Kei Chan

Hearing Site: Las Vegas, Nevada

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. Members and Associated Person

The expungement hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Yiqun Lu (“Claimant”) appeared pro se.

For Respondents Wing Kei Chan (“Chan”), and Futu Clearing Inc. (“Futu Clearing”): Cameron Matheson, Esq. and Anya Thepot, Esq., Murphy & McGonigle, Glen Allen, Virginia.

For Respondents Interactive Brokers Corp. (“Interactive Brokers Corp.”) and Interactive Brokers LLC (“Interactive Brokers LLC”): Jason O. Billy, Esq., Interactive Brokers LLC, Washington, District of Columbia.

Hereinafter, Chan, Futu Clearing, Interactive Brokers Corp. and Interactive Brokers LLC are collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: March 24, 2021.

Claimant signed the Submission Agreement: March 11, 2021.

Statement of Answer filed by Interactive Brokers Corp. and Interactive LLC on or about: May 13, 2021.

Statement of Answer filed by Futu Clearing and Chan on or about: June 8, 2021.

Interactive Brokers Corp. and Interactive Brokers LLC signed the Submission Agreement: May 13, 2021.

Chan signed the Submission Agreement: July 13, 2021.

Futu Clearing signed the Submission Agreement: July 19, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted charging fraudulent “exchange fees” as the sole cause of action. The cause of action relates to various unspecified securities.

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

In their Statement of Answer, Futu Clearing and Chan denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. \$21.42 in compensatory damages;
2. \$35,000.00 in compensatory damages for loss of investment opportunities;
3. \$25,000.00 in compensatory damages for pain and suffering; and
4. A refund from Futu Clearing on all wrongly charged option commissions or “exchange fees”.

In their Statement of Answer, Interactive Brokers Corp. and Interactive Brokers LLC requested:

1. Denial of Claimant’s Statement of Claim; and
2. Such relief as the Arbitrator deems just and proper.

In their Statement of Answer, Futu Clearing and Chan requested:

1. Dismissal of Claimant’s Statement of Claim;
2. Attorneys’ fees;
3. Costs and expenses; and
4. Expungement of this matter from Chan’s Central Registration Depository (“CRD”) records.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 7, 2021, Interactive Brokers Corp. and Interactive Brokers LLC filed a Motion to Dismiss pursuant to Rule 12504 of the Code of Arbitration Procedure (“Code”). On July 12, 2021, Claimant filed a Motion to Deny Interactive Brokers Corp. and Interactive Brokers LLC’s Motion to Dismiss. On July 19, 2021, Claimant filed a response opposing the Motion to Dismiss. That same day, Interactive Brokers Corp. and Interactive Brokers LLC filed a reply in support of their Motion to Dismiss. On September 27, 2021, the Arbitrator heard oral arguments on the Motion to Dismiss. That same day, the Arbitrator issued an order deferring his decision on the Motion to Dismiss until a hearing is held on Futu Clearing and Chan’s Motion to Dismiss.

On September 24, 2021, Futu Clearing and Chan filed a Motion to Dismiss pursuant to Rule 12504 of the Code. On September 28, 2021, Claimant filed a response opposing the Motion to Dismiss. On October 22, 2021, Futu Clearing and Chan filed a Motion to Reschedule the Motion to Dismiss hearing. On November 4, 2021, the Arbitrator issued an Order denying Futu Clearing and Chan's Motion to Reschedule the Motion to Dismiss hearing.

On November 19, 2021, Claimant filed a notice of settlement, pursuant to which Claimant has agreed to dismiss, with prejudice, this matter in its entirety with respect to all Respondents. Therefore, the Arbitrator made no determination with respect to any of the relief requests contained in the Statement of Claim.

On November 23, 2021, Futu Clearing and Chan filed a Motion for Expungement, to which no response was filed.

The Arbitrator conducted a recorded hearing by videoconference on January 14, 2022, so the parties could present oral argument and evidence on Chan's request for expungement.

Claimant, Interactive Brokers Corp., and Interactive Brokers LLC participated in the expungement hearing and did not oppose the request for expungement.

The Arbitrator reviewed Chan's BrokerCheck® Report.

The Arbitrator also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Chan did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim; Interactive Brokers Corp. and Interactive Brokers LLC's Statement of Answer; Futu Clearing and Chan's Statement of Answer; Chan's BrokerCheck® Report; Chan's Motion for Expungement; and the Settlement Agreement.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2122464) from registration records maintained by the CRD for Respondent Wing Kei Chan (CRD Number 6616753) with the understanding that, pursuant to Notice to Members 04-16, Respondent Wing Kei Chan must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

The issue raised by Claimant was that option exchange fees totaling \$21.42 were commissions charged by Futu Clearing, and Futu Clearing had advertised zero commissions on all trades. As shown at the hearing, these fees were “pass-through” fees, and not commissions, as disclosed on Futu Clearing’s “Commission and Fee Schedule” on their website. This Fee Schedule was revealed to Claimant when he made an application to open his account with Futu Clearing, as evidenced by his signature on the application. While Claimant might have thought that these fees were commissions charged by Futu Clearing, he was incorrect in that belief. Furthermore, Chan had never met with, or spoken to Claimant prior to the expungement hearing, and was totally unaware of this issue until this arbitration was filed with FINRA Dispute Resolution Services.

2. 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	= \$	975.00
Expungement Filing Fee	= \$	1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Dispute Resolution Services previously deferred Claimant’s filing fee of \$975.00. Upon conclusion of the matter, the Arbitrator determined to assess the fee.

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.

Accordingly, as a party, Futu Clearing is assessed the following:

Member Surcharge	= \$	1,100.00
Member Process Fee	= \$	3,750.00

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

Member Surcharge	= \$	1,100.00
Member Process Fee	= \$	2,250.00

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

Member Surcharge	= \$	1,100.00
Member Process Fee	= \$	2,250.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

November 23, 2021, settled by Parties	= \$	100.00
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Total Late Pre-Hearing Cancellation Fees	= \$	100.00

The Arbitrator has assessed the total late pre-hearing cancellation fees to Claimant.

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$	900.00
Pre-Hearing Conferences: July 12, 2021	1 session	
September 27, 2021	1 session	
One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: January 14, 2022	1 session	
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Total Hearing Session Fees	= \$	2,025.00

The Arbitrator has assessed \$450.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$450.00 of the hearing session fees jointly and severally to Respondents.

The Arbitrator has assessed \$1,125.00 of the hearing session fees to Chan.

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

ARBITRATOR

Robert Rosen

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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

Robert Rosen

02/16/2022

Robert Rosen
Sole Public Arbitrator

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.

February 18, 2022

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