

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Xuehong Sun

Case Number: 21-01158

vs.

Respondent
Interactive Brokers LLC

Hearing Site: Chicago, Illinois

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

REPRESENTATION OF PARTIES

Claimant Xuehong Sun (“Claimant”) appeared pro se.

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

CASE INFORMATION

Statement of Claim filed on or about: May 4, 2021.

Claimant signed the Submission Agreement: May 3, 2021.

Replies to Answer filed on or about: June 23, 2021, June 27, 2021, and July 5, 2021.

Statement of Answer filed on or about: June 23, 2021.

Respondent signed the Submission Agreement: June 23, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant alleged that, due to a malfunction of Respondent’s margin calculation system, Respondent wrongfully liquidated the positions in Claimant’s portfolios, significantly increased Claimant’s risk and caused Claimant to incur a loss.

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 \$54,804.00 and an

order compelling Respondent to fix the problem in its liquidation/margin calculation/risk management system.

In the Statement of Answer, Respondent requested that Claimant's claims be denied and additional relief as the Arbitrator deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

On September 17, 2021, Respondent filed a Motion for Partial Dismissal of Claimant's Claims pursuant to Rule 12504 of the Code of Arbitration Procedure ("Code") ("Partial Motion to Dismiss"). The same day, Claimant filed a response opposing the Partial Motion to Dismiss. On September 22, 2021, Respondent filed a Reply in Further Support of the Partial Motion to Dismiss. The same day, Claimant filed two further responses opposing the Partial Motion to Dismiss. On October 13, 2021, the Arbitrator heard oral arguments on the Partial Motion to Dismiss. In an Order dated October 14, 2021, the Arbitrator granted the Partial Motion to Dismiss on the following grounds:

As it relates to IBKR Account 5187:

Claimant had traded on margin in the indicated account with [Respondent] executing a liquidation trade for margin violations. The risks and terms & conditions of that account had been previously explained in writing to [Claimant] and he had a multi-year history as a margin trading customer with [Respondent]. After making a complaint about that liquidation action, [Claimant] was offered by [Respondent], and subsequently accepted a [\$2,400.00] commission credit to settle the dispute. Claimant contends he intended a condition of the settlement to be that [Respondent] change its internal trading systems to prevent repetition of the circumstances that resulted in this dispute. No evidence was provided that [Respondent] ever adjusted its settlement offer or its company processes specifically to suit this intention. As an accompanying condition of the settlement offer, claimant nonetheless signed an agreement not to seek further compensation arising from the related trades.

Under FINRA Rule 12504(a)(6)(A), a motion to dismiss can be granted when the non-moving party previously releases the claim in dispute by signed agreement and/or written release. That rule applies to the facts summarized for this case and justifies the granting of [Respondent's] motion. No other relief beyond dismissal of the particular claim is granted.

In an Order dated October 26, 2021, in response to Claimant's submission dated October 15, 2021, the Arbitrator confirmed the Order dated October 14, 2021.

On November 12, 2021, the parties submitted a Joint/Unopposed Motion for Decision on the Papers.

AWARD

After considering the pleadings and final written submissions, the Arbitrator 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, treble damages, and attorneys' fees, 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

**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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

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

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 @ \$450.00/session = \$ 900.00
Pre-Hearing Conferences: August 16, 2021 1 session
October 13, 2021 1 session

Decision on the papers: = \$ 300.00

Total Hearing Session Fees = \$ 1,200.00

The Arbitrator has assessed \$600.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$600.00 of the hearing session fees to Respondent.

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

ARBITRATOR

Gregory G. Gocek

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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

Gregory G. Gocek

Gregory G. Gocek
Sole Public Arbitrator

02/28/2022

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.

February 28, 2022

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