

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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3:22 pm, Feb 03, 2014

CHANG MING LI

v.

GAIN CAPITAL GROUP, LLC,
d/b/a FOREX.COM

CFTC Docket No. 10-R024

ORDER OF SUMMARY AFFIRMANCE

Our review of the record and the parties' and amicus's appellate submissions establishes that the Administrative Law Judge committed no error material to the outcome of the proceedings in his Order of Dismissal.¹ For purposes of this determination, our consideration of the appellate submissions has been limited to matters that were raised before the Administrative Law Judge and therefore properly preserved for appeal and that were not otherwise waived. Accordingly, pursuant to Section 14 of the Commodity Exchange Act and Commission Regulation 12.406(b), we summarily affirm the Order of Dismissal without opinion.²

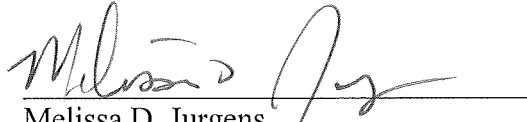
IT IS SO ORDERED.³

¹ We note that, while the complainant, Chang Ming Li, traded both foreign currency and gold with the respondent Gain Capital Group, LLC, the respondent asserted that the losses at issue in this case resulted solely from gold trading and Li did not dispute this. Gain Motion for Summary Disposition at 1; Li Opposition to Respondent's Motion for Summary Disposition and Complainant's Cross-Motion for Summary Judgment at 2. We therefore find it unnecessary to reach any issues specific to foreign currency to resolve this appeal and take no position on the merits of the discussion of foreign currency in the Order of Dismissal.

² Pursuant to Commission Regulation 12.406(b), 17 C.F.R. § 406(b), neither the initial decision nor the Commission's order of summary affirmance shall serve as a Commission precedent in other proceedings.

³ Under Sections 6(c) and 14(e) of the Commodity Exchange Act, 7 U.S.C. §§ 9 and 18(e)(2000), a party may appeal a reparation order of the Commission to the United States Court of Appeals for only the circuit in which a hearing was held; if no hearing was held, the appeal may be filed in any circuit in which the appellee is located. The Commission has ruled that telephonic hearings are "held" in Washington, D.C., although parties may speak from several different locations. *Dubois v. Alaron*, [2000-2002 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,406 at 51,027 n.17 (CFTC Oct. 26, 2000). The statute also states that such an appeal must be filed within 15 days after

By the Commission (Chairman GENSLER and Commissioners CHILTON, O'MALIA and WETJEN).



Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: December 16, 2013

notice of the order and that any appeal is not effective unless, within 30 days of the date of the Commission order, the appealing party files with the court a bond equal to double the amount of any reparation award.