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Steve Worthington, Complainant, v. Interactive Brokers LLC, Respondent.	CFTC Docket No. 18-R029 **Served electronically**

INITIAL DECISION AND
ORDER DISMISSING THE COMPLAINT

Before: Kavita Kumar Puri, Judgment Officer
Commodity Futures Trading Commission
Washington, D.C.

Appearances: Steve Worthington, *self-represented*
Santa Barbara, CA
For Complainant

Carlos E. Provencio
Interactive Brokers LLC
Washington, D.C.
For Respondent

INITIAL DECISION

Complainant Steve Worthington brings this Complaint against Respondent Interactive Brokers, a CFTC-registered futures commission merchant, for failing to execute a buy stop limit order in compliance with its website disclosures.

Complaint (June 20, 2018). He claims that this failure caused him $860 in damages. For the reasons that follow, his Complaint is dismissed.

I. Procedural Background

Complainant Steve Worthington filed his Complaint on June 20, 2018, alleging Respondent breached its fiduciary duties, failed to adequately supervise its personnel, and provided inadequate software and clearing services due to a canceled trade. To support his claims, Worthington attaches guidance from Interactive Brokers' website regarding buy stop limit orders; a chat transcript from the same day his order was canceled (allegedly erroneously); and his Activity Statement from the relevant period. *See* Complaint Exs. 1A-1C.

Interactive Brokers submitted an Answer alongside a Motion to Terminate Consideration of the Pleadings on September 4, 2018, arguing that Interactive Brokers did not cancel Worthington's trade and so cannot be liable for any damages. To support its Motion, Respondent produced Worthington's Account Information, Customer Agreement, and the Chicago Mercantile Exchange's (CME) rules regarding buy stop limit orders. *See* Answer & Motion to Terminate Consideration of Pleadings (Motion to Dismiss) at Exs. 1-3.

On October 4, 2018, Eugene Smith, Director of the Office of Proceedings, denied Respondent's motion but noted that nothing precluded it from re-filing the same motion before the Judgment Officer. Although Respondent did not refile its motion, I construe it as a Motion to Dismiss pursuant to Commission Rule 12.205(c) and refer to it as such throughout this Initial Decision.

The case was assigned to my docket on October 26, 2018 and discovery commenced. However, on February 6, 2019, I stayed all proceedings in this case due to Worthington's unauthorized representation of a complainant in another case—*Ornstein v. Interactive Brokers*, CFTC No. 18-R028 (2018). Worthington initially brought the same claims he alleges here (as well as additional claims) on behalf of Lisa Stockwell Ornstein, in clear violation of Commission Rule 12.9. *See* Order Staying Proceedings & Appendix A (Feb. 6, 2019). This Office informed Worthington repeatedly that he could not bring claims on Ornstein's behalf for damages he did not sustain. *Id.* Worthington eventually filed his own claim for $860 in damages in the instant case, but he continued to act as Ornstein's illegal representative and ask for discovery in Ornstein's case. *Id.* I stayed the instant case to shut down Worthington's efforts to prosecute his and Ornstein's case in parallel. *Id.* Although Worthington violated the stay in the instant case by continuing to ask for discovery in both cases, I now lift the stay as the parties in Ornstein's case voluntarily dismissed that complaint following settlement.

II. Findings of Fact

Worthington is a sophisticated investor with over $1 million of liquid net worth and over 10 years trading futures, forex and options. Answer & Motion to Dismiss at Exhibit 1. Interactive Brokers is an online broker and registered futures commission merchant.

On May 9, 2017, Worthington placed—through his account with Interactive Brokers—a buy stop limit order for execution on May 10, 2017 at 9 am, expiring on May 12, 2017 at 6:30 pm with equal stop and limit prices at $46.44. Answer &

Motion to Dismiss at 5 (with audit trail). The exchange, Globex/NYMEX, canceled that order without executing it on May 10, 2017 because the last traded bid and ask quotes ($46.641 and $46.62 respectively) were higher than the stop price. Interactive Brokers played no role in that order's cancelation.

III. Legal Analysis and Conclusions

A motion to dismiss generally tests the sufficiency of the complaint, but may be granted for plainly meritorious defenses as well. *Hillpot v. Dorrity*, CFTC No. 08-R031, 2008 WL 4553068, at *1 (CFTC Oct. 10, 2008). The plainly meritorious defense here is that Interactive Brokers played no role in canceling the buy stop limit order that caused Worthington's $860 loss.

A buy stop limit order is a conditional order to buy that requires the designation of two price points—the "stop" price, which is the price at which the trade becomes executable or triggers, and the "limit" price, which is the outside edge of the price target for a trade. If the price never reaches the stop (or trigger) price, the trade will not execute. A trader might place a buy stop limit order to purchase a contract when it shows upward momentum, achieving what the trader deems is her "stop" or trigger price, but does not want to purchase beyond a certain price or a "limit" price. The buy stop limit order also specifies a date on which it is executable.

CME specifies that "[f]or a bid order, the trigger price must be higher than the last traded price." Answer & Motion to Dismiss at Exhibit 3. Thus if the trigger price is less than the last traded price on the day of execution, the order will not execute. And according to IB's website, "[i]n the case of a Buy Stop Limit Order, the limit price must be greater than or equal to the stop price." Compl. at Question 4.

Worthington brings this reparations complaint because he believes his buy stop limit order was canceled by Interactive Brokers because his limit price and stop price were equal. If this were true, it could violate Interactive Brokers' published guidance on stop limit orders that expressly states those two prices can be equal. But Worthington's buy stop limit order was <u>not</u> canceled by Interactive Brokers because his stop and limit prices were the same. In fact, no error message was ever generated by Interactive Brokers at all. His trade was canceled because the last traded price was above his stop price. Worthington's stop or trigger price was $46.44. The last traded price was $46.61. Because CME specifies that <u>the trigger price must be higher than the last traded price</u>, which in this case it clearly was not, his buy stop limit order was never triggered for execution.

Worthington's confusion as to why his trade never executed is apparent in his misunderstanding of what the customer service representative was trying to tell him. In the chat log Worthington attaches to his complaint, Interactive Brokers' customer service representative clearly states: "A BUY STPLMT needs to be ABOVE the quote" and that Worthington "entered the BUY STPLMT incorrectly," because his prices "were below the market." Compl. Ex. 1B at 1 (May 10, 2017 Chat Transcript). In response, Worthington says "at the quote," and that Interactive Broker's systems were malfunctioning.

Worthington misunderstands Interactive Brokers' "ABOVE the quote" language. His Complaint makes this misunderstanding plain, as he contends the "IB customer service representative . . . incorrectly informed [him]e that their software requires that in a Buy Stop Limit Order, the limit price must be above the stop price quote even though their website clearly indicates that the two can be equal." Compl. at Question 4. That is not a plausible reading of what the customer service representative stated during the chat transcript, as the representative clearly stated that a buy stop limit needs to be "above the quote" and clarified that Worthington entered his order incorrectly because his prices were "below the market."

Thus Interactive Brokers did not cancel the trade; instead, it was never triggered for execution and canceled by Globex. Therefore the Complaint fails to show that Interactive Brokers, through any actions of its own, proximately caused Worthington any damages.

CONCLUSION

Because Respondent could not have proximately caused Complainant any damages with respect to this trade, this Complaint is DISMISSED with prejudice.

Dated: September 6, 2019

Kavita Kumar Puri
Judgment Officer