

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

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3:23 pm, Feb 03, 2014

MEDHAT HEDAYET

v.

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

CFTC Docket No. 09-R044

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. In making this determination, we have taken into consideration that respondent Gain has contended on appeal that the transactions in this case were governed specifically by one of the two provisions of the Commodity Exchange Act dealing with off-exchange retail foreign currency transactions, section 2(c)(2)(C), and not by the other provision, section 2(c)(2)(B); and that the complainant, Medhat Hedayet, has not disputed this or argued that the choice of provisions would make a legal difference. 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.¹

IT IS SO ORDERED.²

¹ 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.

² 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: January 3, 2014

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.