ST. JOHN'S UNIVERSITY
SCHOOL OF LAW

The Hugh L. Carey Center for Dispute Resolution

&

FINRA
The Financial Industry Regulatory Authority

present the

13TH ANNUAL
Securities Dispute Resolution Triathlon

Friday, October 14, 2022
Saturday, October 15, 2022
and Sunday, October 16, 2022

VIRTUALLY

Reimagining Innovation, Investing and Investor Protection?
Shiloh Parker, Claimant and Fintech Securities Brokerage (FSB), Respondent
Akira Lee is FSB's Registered Options Principal and FSB's Corporate Representative

Judge's Version

Background:

What supervisory obligations, if any, does Fintech Securities Brokerage (FSB), a FINRA member, have to supervise the trading in Shiloh Parker's customer account when its customer/brokerage agreement explicitly states that the firm is not providing investment advice?

FINRA rules require that a firm "establish, maintain, and enforce written procedures to supervise the types of business in which it engages…"[1] What should those procedures look like when the firm is an online platform, and there is no traditional broker-customer interaction? The heart of this year's Triathlon problem compels us to reconsider the appropriate boundaries when innovation challenges investor protection.

Meet 21 year old Shiloh Parker. Shiloh is a part-time student at the local community college studying bionic farming. Shiloh is also a part-time employee at a nearby organic farm. Shiloh believes that organic food helps feed the body and nurture the soul. Even Shiloh's rescue dogs, Yin and Yang, are regularly fed organic food.

Shiloh is part of the growing group of young investors who prefer to invest in fintech securities brokerage firms rather than with traditional brokerage

[1] FINRA Rule 3110, https://www.finra.org/rules-guidance/rulebooks/finra-rules/3110.

firms. These young investors prefer self-directed investments that reflect their personal values and social concerns, and fintech securities brokerage firms provide that service. For this group of young investors, investing is not just about money. It's also about furthering their social values and developing relationships within a like-minded community. As part of that community, investors are educated about how to make investment choices that are aligned with their personal values.

The fintech investment experience is enhanced by "finfluencers," social media influencers who de-mystify investing for young and inexperienced investors. Investing through fintech securities brokerage firms is also fun. The investing experience is "gamified" and designed to encourage its young investors to keep investing. For example, those high scoring investors who have made the highest percentage of profits within a defined period are placed on a leaderboard that incentivizes these investors to compete with other high scoring investors. In another example, when investors sell at a profit, they receive a badge with the inscription "Winner;" when investors sell at a loss, they receive a motivational message to keep them investing such as "*All successful people have also had some losses.*"

FSB is among the growing number of fintech securities brokerages firms that have responded to the investment needs of young investors. These companies are hoping to transform the traditional model of investing into a generational reimagining of investing. According to the fintech securities brokerage firm's business model, the customer makes self-directed investment decisions; the company doesn't provide the investor with any investment advice. Fintech securities brokerage firms often do not charge investors for trades and do not require any account minimums. Instead, one of the ways the firms make money is by directing order flow to other brokers referred to as *market makers,* who execute customer trades.

Fintech securities brokerage firms are being carefully watched by regulators to ensure they follow FINRA and SEC rules and regulations. To date, FSB has been able to settle its customers' complaints without drawing adverse media attention that might detract from the firm's profitability. Not all of FSB's competitors have been so lucky. On June 30, 2021, FINRA fined a rival fintech securities brokerage firm $70 million for systemic supervisory failures. "This action sends a clear message—all FINRA member firms, regardless of their size or business model, must comply with the rules that govern the brokerage industry, rules which are designed to protect investors and the integrity of our markets. Compliance with these rules is not optional and cannot be sacrificed for the sake of innovation or a willingness to 'break things' and fix them later," said Jessica Hopper, Executive Vice President and Head of FINRA's Department of Enforcement.[2] FINRA found that, from January 2018 to February 2021, the company had failed to reasonably supervise the technology that it relied upon to provide core broker-dealer services, such as accepting and executing customer orders.

Shiloh's friends had been talking about how much fun and how lucrative fintech investing was. Shiloh had also been watching the YouTube and TikTok videos of finfluencer Echo Green, who strongly recommended investing through FSB. Shiloh, then twenty years old, decided to join the investing party and invest $2,000 of the $20,000 that Shiloh had managed to save from birthday and holiday gifts, and a number of part time jobs that Shiloh had since they turned 14. Shiloh followed Echo Green's endorsement and chose FSB. FSB was founded in 2019 and is a FINRA member firm.

On January 18, 2022, Shiloh completed the FSB application through FSB's app. By clicking submit, Shiloh acknowledged that they received and accepted the customer agreement. The customer agreement provides that FSB is serving solely as the customer's agent; the customer is making self-directed investments based on their own investment decisions. According to the FSB customer agreement, FSB or persons acting on behalf of FSB do not "provide any investment advice" or "recommend any security, transaction or order." Further, the customer agreement states that Shiloh agreed that FSB will not be responsible for interruptions in service.

[2] FINRA Orders Record Financial Penalties Against Robinhood Financial LLC (June 30, 2021), https://www.finra.org/media-center/newsreleases/2021/finra-orders-record-financial-penalties-against-robinhood-financial.

Shiloh's application was approved later that afternoon, and they were able to transfer $2,000 into the account. Shiloh immediately purchased 1,000 shares at $2 per share of *No Sh*t,* a company that provided natural fertilizer to organic farms. What fun! Shiloh posted in the comments to one of Echo Green's videos that they had opened an account and were investing. You can imagine the jokes Shiloh received from the community of investors about this investment. Still, Shiloh enjoyed the sense of community with other investors and felt privileged to be able to support a company that shared Shiloh's belief in organic products. As investing luck would have it, Shiloh's stock in *No Sh*t* skyrocketed in three short months because of pandemic-related supply chain problems, causing the stock to double in value. On April 19, 2022, Shiloh entered an order to sell the stock at $4 per share and walked away with $4,000. Shiloh received a "Winner" badge in the FSB app, because they sold the stock for a profit.

Buoyed by this initial investing success, Shiloh decided to invest the $4,000 in proceeds in a company that manufactured natural pesticides, *Buzzzz*. Shiloh was familiar with the company, because the organic farm where they worked used *Buzzzz*. On May 4, 2022, Shiloh entered an order to purchase 200 shares of *Buzzzz* at $20 per share.

On May 8, 2022, Shiloh turned twenty-one. What a milestone! Shiloh received a $2,100 birthday check from their grandparents. Shiloh also received $21,000 from a UGMA account that their parents had opened for Shiloh, and another $5,000 from other relatives and friends. Shiloh was deeply moved by their family's generosity and decided to seize the investment opportunity. If Shiloh kept making profitable investments, maybe they could make the $125,000 needed to become a 10% owner of the organic farm where they had been working once they graduated community college the following month in June 2022. Shiloh deposited their birthday money into their FSB account and decided to transfer the remaining $18,000 from their savings into the account. Shiloh now had $46,100 in cash to invest.

Shiloh loved being part of the investment community and still regularly listened to finfluencer Echo Green, to ensure that Shiloh's investment strategy was sound. During one of Echo Green's videos, Echo Green was discussing *Kleen*, a company specializing in natural cleaning products. According to Echo Green, *Kleen* was a great investment for those investors who believe in supporting natural products. On May 11, 2022, Shiloh decided to purchase 50 shares of Kleen at $10 per share, for a total investment of $500.

In their videos, Echo Green frequently extolled the financial benefits of investing in options and utilizing margin. Echo Green cautioned that option and margin investing was not for beginning investors. However, option investing could be a way to invest in companies whose stock was "expensive." An investor could buy an option at a fraction of the cost, creating opportunities for greater gains. These potential gains could be further amplified if margin was used. Of course, there were some risks in option and margin investing, but savvy investors knew how to mitigate those risks. Shiloh listened to Echo Green and thought, "That's for me!" Besides, the terms "option" and "margin" were already familiar to Shiloh. When on the FSB app, Shiloh regularly received push notifications that let them know options and margin trading were available with the click of a button. They also received emails about options and margin trading. One email subject line stated: "Options: Learn how easy option trading can be!"; and another stated, "Margin – Spend less, trade more!" The emails contained links to FSB's educational information about options and margin trading, each of which included a button to apply to be approved for access to options trading or margin trading.

In several videos, Echo Green talked about *My Bundle of Joy,* a new certified organic baby formula company that had entered the market. Echo Green said it was a great investment opportunity. It was now trading at around $105 per share. *My Bundle of Joy* was a welcome addition to the baby formula market, especially after the baby formula shortage in Spring 2022. Echo Green demonstrated how using options would allow investors to participate in the market with smaller sums of money. For example, to purchase 500 shares of *My Bundle of Joy*, an investor would need over $52,000 based on where the stock was then trading. However, if an investor purchased call options for *My Bundle of Joy*, an investor could participate in the market performance of the stock for only a fraction of the cost; at the time, it would only cost $1,500 to purchase **call *options*** to buy 500 shares at $115 per share within the next month. Shiloh decided to give options trading a try, beginning with *My Bundle of Joy*.

When purchasing a *call option,* the investor (the call option buyer) is purchasing the right to buy a stock at a pre-determined price (the strike price) on or before a set date (the expiration date). When purchasing a *put option*, the investor (the put option buyer) has the right to sell the underlying stock at a pre-determined price (the strike price) on or before a set date (the expiration date). Echo Green had talked about how put options are almost like buying insurance, should you exercise your call option and then the value of the stock suddenly plummets.

Margin allows you to borrow money from the brokerage firm to trade securities. Generally, you are permitted to borrow up to 50% of the purchase price of many stocks. If the price of the stock declines, investors may be faced with a margin call, or a demand to repay all or part of the loan from the brokerage firm. Firms are permitted to sell securities within a customer's account to satisfy a margin call. If the price of the security declines by more than half, the investor may end up owing the firm money.

Before Shiloh could purchase an option, FSB required that Shiloh be approved for options trading. On May 23, 2022, Shiloh went on the FSB app, and clicked on the "Options!" button. The app asked Shiloh to answer a few questions, including their prior experience trading options (none); their other investment experience (5 ½ months); their employment (student and part-time worker at organic farm); and whether Shiloh worked for a financial services firm (no). FSB also provided a link to the pdf of the brochure, "Characteristics and Risks of Standardized Options," available here. About three hours later, Shiloh received an in-app notification that FSB approved Shiloh for level 2 options trading, Basic Options Strategies, meaning Shiloh could purchase calls and puts, write covered calls, and write cash-covered puts. Once Shiloh was approved for options trading, Shiloh went into their account settings, and checked the box to permit trading on margin. FSB then emailed Shiloh the margin account agreement, which was also made available in the app under the "Documents" menu.

The next day, on May 24, 2022, Shiloh began trading options. First, Shiloh purchased a call option for 700 shares of *My Bundle of Joy* at a strike price of $115 per share, with an expiration date of June 17, 2022. This meant that Shiloh could purchase up to 700 shares of the stock for $115 per share any time on or before June 17, 2022. Following Echo Green's guidance, Shiloh then purchased a put option for 700 shares of *My Bundle of Joy* at a strike price of $95 per share, with an expiration date of June 17, 2022. This meant Shiloh would have the right to sell up to 700 shares of the stock for $95 per share any time on or before June 17. Each option cost Shiloh $2,000.

As anticipated, the value of *My Bundle of Joy* continued to soar. On June 10, 2022, a week before the options were to expire, Shiloh decided to exercise the call options and buy 700 shares of *My Bundle of Joy,* now trading at around $185 per share, for $115 per share. The total purchase price was $80,500. Shiloh had a total of $41,600 in cash in their account after accounting for the $4,000 used to purchase the call and put options. Using margin, Shiloh borrowed the remaining $38,900 from FSB to complete the purchase at an annual interest rate of 3.5%.

On Monday, June 13, 2022, Shiloh thought about selling the shares of *My Bundle of Joy*. The stock was trading at about $225 per share. Shiloh logged into the FSB app and tried to enter an order to sell the stock, but the app froze. Shiloh thought this was a sign to keep holding the stock, so they didn't do anything further.

The next day, on June 14, 2022, the news reported that the factory where *My Bundle of Joy* was manufactured was being investigated for possible contamination, and the stock price began to drop. However, it was still trading between $125 per share and $150 per share. On June 17, 2022, the factory was shut down and the stock price of *My Bundle of Joy* plummeted. At 3:55pm Eastern Standard Time, Shiloh tried to enter an order of the FSB app to exercise the put option to mitigate Shiloh's loss, but the app kept freezing. Just before 4pm, Shiloh was able to enter an order to sell the stock for $5 per share, receiving $3,500 in proceeds. Shiloh did not know why the order to exercise the put option would not process.

In the one week Shiloh held the stock, they lost a total of $77,000 (the difference between the purchase price of $80,500 and the proceeds of $3,500). Additionally, Shiloh had spent $2,000 on a put option which they were not able to exercise. To make matters worse, the firm was asking Shiloh to deposit an additional $35,400 to repay the remaining margin debit balance plus an additional $26.00 in interest on the loan. The firm had already kept the $3,500 in proceeds from the sale of the stock and was threatening to sell Shiloh's holdings of *Buzzzz* and *Kleen*. Shiloh decided to sell those shares themself and was able to sell the 200 shares of *Buzzzz* at $25 per share, for total proceeds of $5,000. Unfortunately, *Kleen*, the product endorsed by finfluencer Echo Green, had dipped 20%. It turns out the factory where *Kleen* was manufactured was unsanitary, and animal droppings were found in the products. Shiloh was able to sell the shares of *Kleen* at $8 per share for total proceeds of $400. After these proceeds were applied to the margin loan, Shiloh still owed FSB $30,000 from the margin debit balance, and interest was accruing every day.

How could this be! Why couldn't Shiloh exercise the put option? That would have limited Shiloh's losses and ensured they didn't owe any money to the firm. Why did FSB even approve Shiloh for options trading without any prior options experience? Why didn't FSB warn Shiloh of the risks of trading on margin? Why did the firm allow Shiloh to place such a large trade to begin with? And why didn't the app work when Shiloh tried to sell the stock at $225 per share? Had the shares been sold at that point, Shiloh would have received $157,500, leaving $118,600 in proceeds after the margin loan of $38,900 was repaid. Instead, now Shiloh owed the firm over $30,000 for the remaining margin debit balance and the additional interest. Shiloh was so close to realizing their dream of buying a stake in the organic farm, but now, that dream remained a fantasy!

Shiloh is not a lone voice in questioning the practices of fintech brokerage firms. Some finfluencers are expressing concern that fintech brokerage firms are actually exploiting young, novice investors by enticing them to make investment choices without providing them with adequate information about the risks involved. Just like gambling!

Shiloh didn't know what to do. When Shiloh's long-time neighbor who happened to be a lawyer heard about what happened to Shiloh, the lawyer offered to represent Shiloh. On August 16, 2022, Shiloh filed a demand for arbitration against FSB, seeking losses of $118,600 for the profits lost when FSB's app didn't let them place the sell order on June 13, 2022.[3] In the alternative, Shiloh sought damages of $41,600, the total that Shiloh lost when FSB permitted them to invest in *My Bundle of Joy*. Finally, Shiloh sought to recover the $5,400 that FSB applied to the margin debit balance, and to have the remaining margin debit balance eliminated. On August 30, 2022, FSB responded and denied the allegations in the claim. Additionally, FSB filed a counterclaim seeking the remaining margin debit balance of $30,000 plus interest at the annual rate of 3.5% from June 10, 2022. On September 20, 2022, Shiloh filed their Response to Counterclaim, reaffirming that the margin debit balance should be eliminated.

NEGOTIATION ROUND:

In this round, each team is to negotiate based on the background facts and the private facts of the client the team is representing. Akira Lee will be the corporate representative for FSB. Shiloh and Akira, accompanied by their respective attorneys, will be the parties present at the negotiation.

MEDIATION ROUND:

In this round, please assume that there was no agreement reached in the negotiation round because the two parties could not agree on the responsibility each side might bear. Each team is to proceed based on the background facts and the private facts of the client the team is representing. Please disregard any additional information that might have been revealed in the

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[3] In the alternative, Shiloh sought $29,600 for FSB's failure to exercise Shiloh's put option. Had the put option been exercised, the stock would have been sold for total proceeds of $66,500 (which is $95 per share times 700 shares). After repaying the loan of $38,900, Shiloh would have received $27,600. Additionally, Shiloh is requesting the $2,000 spent on the put option in this damage calculation, as it was not able to be exercised.

previous round as well as any agreements that might have been discussed. Akira Lee will be the corporate representative for FSB. Shiloh and Akira, accompanied by their respective attorneys, will be the parties present at the mediation.

ARBITRATION ROUND:

In this round, please assume that there was no agreement reached in the mediation round because each side believed they had a winning case and was confident a panel of arbitrators would agree. In this round, each team is to proceed based on the background facts and the private facts of the client the team is representing. Please disregard any additional information learned in the previous two rounds as well as any agreements that might have been reached.

There will be one witness for each side: Shiloh Parker for the Claimant and Akira Lee for the Respondent. Akira is also appearing as FSB's corporate representative. The Statement of Claim is attached hereto as "Attachment 1." The Statement of Answer and Counterclaim is attached hereto as "Attachment 2." Claimant's Statement of Answer to the Counterclaim is attached hereto as "Attachment 3." Shiloh's signed Submission Agreement is "Attachment 4," and FSB's signed Submission Agreement is "Attachment 5." The Statement of Claim, the Statement of Answer and Counterclaim, and Claimant's Statement of Answer to the Counterclaim will be "Arbitrator's Exhibit 1" and are therefore part of the arbitration record.

* This problem was collaboratively created by Katherine Bayer, Elayne E. Greenberg, Erin Jett, Stefanie Kendall, and Christine Lazaro.

Private Facts for Shiloh Parker and Shiloh's Lawyer

You will not let FSB continue to exploit young, inexperienced investors like you. FSB violated its 3110 supervision obligations. FSB lured you into the fintech investment community by creating a fantasy environment in which naive investors like yourself are seduced into believing they could make successful investments with minimal risks. The badges when your investments profited, the motivational messages when your investments lost money, and the leaderboards of successful investors were part of the fun that falsely led you to believe that your financial dreams could be realized if you just kept investing. Echo Green recommended FSB, and you are now wondering if that was contrived by FSB but there is no evidence that FSB had anything to do with Echo Green.

Yes, FSB stated that FSB investors were self-directed and that FSB did not provide any investment advice. However, you interpreted FSB's communications differently. When you were on the FSB app and received push messages about options and purchasing on margin, you assumed that FSB had assessed that options and margin were appropriate for you. Isn't that investment advice?

Yes, FSB approved your application to invest in options in three hours and gave you a link to generic info about the risk of option investing. Yes, FSB also approved you for margin investing. Why didn't they also create a leaderboard showcasing those option investors who sustained large losses? Why didn't they require you to take a financial literacy test to ensure that you appreciated the inherent risks involved? Doesn't the research show that low financial illiteracy increases the likelihood that investors will make riskier and potentially damaging choices?

FSB also didn't raise any concerns about you suddenly placing such a large trade. Before purchasing *My Bundle of Joy*, the largest trade you had placed was for $4,000. How did they think you knew what you were doing when you purchased over $80,000 of a single stock? How could they lend you money to make such a risky move?

You also noticed there were glitches with the FSB app. You first noticed it when you tried to sell *My Bundle of Joy*. You noticed it again when you tried to exercise your put option. You don't know if the problem was with your Wi-Fi connection or was the fault of the firm. While you didn't think much about it when you tried to sell the stock, you were in a different location when you tried to exercise the option, so it seems unlikely it was your Wi-Fi and not the firm's system. You know the account agreement says the firm is not responsible for system outages, but shouldn't the app work? A functioning app is fundamental to a fintech firm.

Even Yin and Yang are upset, because they are sensing your internal agitation with this investment debacle. Of course, you want to be made economically whole. You want to become a part owner of the organic farm, a lifelong dream. How can you make that happen? How embarrassing for your family to think that you threw away your savings and their special birthday gifts on a financial scam! You want transparency and accountability in the fintech securities investment industry. You are committed to promoting financial literacy and warning other vulnerable young people about the risk of fintech investments.

Private Facts for FSB and FSB's Lawyer: Akira Lee is FSB's Registered Options Principal and Corporate Representative

FSB takes great pride in being part of the group of financial industry's disruptive innovators. You appreciate that even though the FSB investing model was a welcome innovation for young investors, you also understand that your welcome was tenuous. As soon as a young investor lost money, there would be a cry to return to the more traditional model. Crocodile tears! *Why didn't FSB protect me from myself?* Isn't that what this claim is about?

As with any innovation, FINRA is still trying to define the line between supporting the inevitable investing innovations and protecting investors. After all, FSB want to make sure its customers are having a positive experience so that they continue using the platform and referring friends. But that doesn't mean FSB will accept liability where there isn't any. FSB was clear in its account agreements what obligations it had assumed. It was not giving any investment advice. That meant FSB was not assessing the appropriateness of trading decisions made by its customers. It provided the required information and followed the rules on opening accounts and approving Shiloh's account for margin and options. Then it was up to Shiloh to decide what would be best for themselves. That is the whole point of FSB's business model – to make sure investing was accessible, not to police who got to invest. FSB was not looking at the size of Shiloh's trades, nor whether Shiloh's trading changed over time.

But FSB also understands that the regulators are watching everything fintech firms are doing. "Compliance with these rules is not optional and cannot be sacrificed for the sake of innovation or a willingness to 'break things' and fix them later," said Jessica Hopper, Executive Vice President and Head of FINRA's Department of Enforcement. That statement has guided FSB's approach to responding to claims from disgruntled investors. FSB has preferred to negotiate practical settlements to such complaints, because these settlements did not get reported publicly. Moreover, FSB learns from these complaints and ascertains which FSB policies and practices they need to modify, and which have little merit. It takes time before any disruptive innovation becomes accepted as the new normal.

FSB regards this matter as one more complaint from a young investor who ignored the stated investing risks. And this customer has a lawyer. That's atypical. Few of the customers have lawyers because they either don't believe in lawyers, or they can't afford them. What's different about this complaint?

FSB doesn't know what happened with the app glitches. There weren't any system wide outages at the time Shiloh tried to place the trades. FSB suspects Shiloh may have had a weak Wi-Fi signal. But, at the time Shiloh claims they tried to exercise the option, there was a lot of traffic in the app because of the decline in *My Bundle of Joy*. While FSB does not believe it has any responsibility for the app issues, it has upgraded the app to better handle user traffic if there are volatile market conditions.

FSB is committed to maintaining its investment model. FSB investors make self-directed investments, and FSB does not make investment recommendations. FSB is willing to reinforce that message and clarify any miscommunications or confusions about that. Another priority for FSB is to avoid negative publicity. Yet, FSB can't help but noticing that when its industry rivals receive negative publicity, they still remain in business.

Yes, the challenges to the fintech securities brokerage business model keep coming. Now the SEC is investigating whether fintech's business model of paying market makers for payment-for-order flow needs to change. Ostensibly, this call for reform is to avoid any conflicts of interest between the retail investors like FSB and the market makers and to help retail investors secure the best price for orders and executing transactions. From FSB's perspective, this is one more example of the financial industry's resistance to innovation.

FSB knows all too well that any disruptive innovation requires tenacity. FSB is prepared to stay in the game for the long haul.

Akira Lee, FSB’s Registered Options Principal will be FSB’s corporate representative. Akira has passed the Series 4 exam and oversees FSB’s approvals of account openings and options trading.

FINRA OFFICE OF DISPUTE RESOLUTION
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In the Matter of the Arbitration Between: :
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SHILOH PARKER, :
Claimant, : FINRA Case No. 22-021011
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vs. : Statement of Claim
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FINTECH SECURITIES BROKERAGE :
Respondent. :
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This Statement of Claim is filed on behalf of Claimant, Shiloh Parker, a customer, against Respondent, Fintech Securities Brokerage ("FSB"), a member firm. This claim is filed pursuant to Rule 12200 of the FINRA Code of Arbitration Procedure as a controversy between a customer and a member firm. Shiloh seeks to recover $118,600 for the profits lost when FSB's app didn't let them place an order to sell the stock, *My Bundle of Joy*, on June 13, 2022. In the alternative, Shiloh seeks damages of $41,600, the total that Shiloh lost when FSB encouraged them to invest in *My Bundle of Joy* on margin. Finally, Shiloh requests that they be reimbursed for $5,400 in additional proceeds which had been applied to the margin debt and the remaining margin debt with FSB be eliminated.

In January 2022, Shiloh opened an account with FSB and deposited $2,000. Over the next four months, they engaged in four trades: the purchase of 1,000 shares of the stock, *No Sh*t*, at $2 per share; the sale of 1,000 shares of the stock, *No Sh*t*, at $4 per share; the purchase of 200 shares of the stock, *Buzzzz*, at $20 per share; and the purchase of 50 shares of the stock, *Kleen*, at $10 per share.

In May 2022, after turning 21, Shiloh transferred an additional $46,100 in their FSB account. The money came from savings and birthday gifts. Between January and May 2022, Shiloh received a number of push notifications from the FSB app alerting them that options trading and margin trading was available with the click of a button. A screen shot of examples of each of the notifications is attached as Exhibit A. Shiloh also received emails about options and margin trading. The emails encouraged Shiloh to engage in each type of trading. An example of each of type of email is attached as Exhibit B.

On May 23, 2022, Shiloh clicked on the "Options!" button on the FSB app and completed an options application. Shortly thereafter, Shiloh received an in-app notification that their account had been approved for options trading. The notification reminded Shiloh that they had not yet activated margin trading on their account, and provided a link to do so. Shiloh clicked on the link, which redirected Shiloh to their account settings, and checked the box that stated, "Enable margin." Shiloh then received a margin account agreement by email.

The next day Shiloh purchased a call option and a put option, both for the company, *My Bundle of Joy*. The call option was for 700 shares of the stock at a strike price of $115, and an expiration date of June 17, 2022. The put option was also for 700 shares of the stock, at a strike price of $95, and an expiration date of June 17, 2022. Each option cost $2,000.

On June 10, 2022, Shiloh exercised the call option and purchased 700 shares of *My Bundle of Joy* at $115 per share, for a total purchase price of $80,500. To complete the purchase, Shiloh invested the $41,600 in cash that was still in their account and borrowed $38,900 from FSB.

On June 13, 2022, Shiloh went onto the FSB app and tried to sell the 700 shares of *My Bundle of Joy*, which were then trading at around $225 per share. The app froze and Shiloh was not able to enter the order. On June 17, 2022, *My Bundle of Joy* dropped precipitously in value following negative publicity and a factory shut down. Shiloh attempted to exercise the put option on the FSB app but was not able to as the app kept freezing. Shiloh was able to enter an order to sell the 700 shares of the stock, which was executed at $5 per share.

FSB then applied the $3,500 in proceeds from the sale of *My Bundle of Joy* to the margin debt. Shiloh received a notification in the FSB app that they must either deposit over $35,400 into their account to cover the remaining debt, or FSB would liquidate their remaining holdings. Shiloh sold their holdings of *Buzzzz* and *Kleen*, and FSB applied the collective proceeds of $5,400 to the margin debit balance. FSB then demanded that Shiloh repay the remaining $30,000 in the margin debit balance as well as interest. Shiloh has not deposited any additional funds into their

FSB account, and currently has a margin debit balance of $30,201, which includes interest being charged by FSB daily.

As a result of the failure of FSB's app, Shiloh was not able to sell their stock in *My Bundle of Joy* on June 13, 2022 when it was trading at around $225 per share. Had the app been functioning appropriately and they been able to sell the stock, Shiloh would have received approximately $157,500. Had the margin loan been repaid at that time, Shiloh would have received approximately $118,600.

When FSB's app failed the second time, Shiloh was unable to exercise their put option. Had they been able to exercise the option, Shiloh would have received approximately $66,500. Had the margin loan been repaid at that time, Shiloh would have received approximately $27,600. Additionally, Shiloh paid $2,000 for an option that was unable to be exercised.[4]

In the alternative, FSB should be responsible for the losses Shiloh suffered after it approved Shiloh to trade options on margin. FSB encouraged Shiloh to engage in trading, that was risky and atypical for Shiloh in both the nature and size of the trading. Had FSB not approved Shiloh for options trading, Shiloh would not have lost any money on *My Bundle of Joy*. As a result, Shiloh seeks to recover the $4,000 spent on the options trades; and the $41,600 invested in *My Bundle of Joy*.

Additionally, because Shiloh should not have incurred a margin debit balance for the foregoing reasons, Shiloh requests the $5,400 in proceeds from the sales of *Kleen* and *Buzzzz* which were retained by FSB and applied to the margin debit balance; and elimination of the remaining margin debit balance, presently at $30,201.

[4] Had the app worked the first time, Shiloh would not have needed to exercise the put option. Accordingly, Shiloh only seeks to recover damages from the second failure if the arbitration panel determines that FSB is not responsible for the first failure.

RELIEF REQUESTED

Based upon the foregoing, Claimant requests an award against Respondent for:

i. compensatory damages in the amount of:
    a. $118,600 because Shiloh could not sell *My Bundle of Joy* on June 13, 2022; or
    b. $29,600 because Shiloh could not exercise their put option on *My Bundle of Joy* on June 17, 2022; or
    c. $45,600 because FSB permitted and encouraged Shiloh to engage in options and margin trading; and

ii. compensatory damages in the amount of $5,400 for the funds retained by FSB in repayment of the margin debit balance; and

iii. elimination of the remaining margin debit balance, presently at $30,201;[5] and

iv. costs and attorneys' fees associated with the filing of this arbitration.

[5] A chart summarizing each damage theory is attached as Exhibit C.

Fintech Securities Brokerage:
Want to trade more for less? Click here to apply for options trading on your account.

Fintech Securities Brokerage:
Want to increase your buying power? Click here to activate margin trading on your account.

From: Fintech Securities Brokerage
Sent:
To: Shiloh Parker
Subject: Options: Learn how easy options trading can be!

Are you interested in learning more about options trading? Options trading can be a fun and easy way to participate in the market. **Fintech Securities Brokerage** offers educational videos to learn about options and different options strategies.

You must be approved for options trading before you can start trading options. Log in to your app today to get started. You can be approved in as little as 30 minutes.

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Brokerage services provided by **Fintech Securities Brokerage**, an SEC-registered broker-dealer and member of FINRA/SIPC. **Fintech Securities Brokerage** does not offer investment advice.

Investments in securities: Not FDIC Insured • No Bank Guarantee • May Lose Value.

Investing in securities involves risks, and there is always the potential of losing money when you invest in securities. Before investing, consider your investment objectives. Past performance does not guarantee future results, and the likelihood of investment outcomes are hypothetical in nature.

From: Fintech Securities Brokerage
Sent:
To: Shiloh Parker
Subject: Margin – Spend less, trade more!

The margin investing feature in the **FSB** App allows you to borrow money from **FSB** to purchase securities. This gives you access to additional money based on the value of certain securities and the cash in your brokerage account. Margin investing can provide flexibility with your cash: if you see an opportunity in the market and want to invest more, you can invest right away without needing to make a deposit from your bank.

You cannot trade on margin unless it is activated in your account settings. Log in to your app today to get started.

Brokerage services provided by **Fintech Securities Brokerage**, an SEC-registered broker-dealer and member of FINRA/SIPC. **Fintech Securities Brokerage** does not offer investment advice.

Investments in securities: Not FDIC Insured • No Bank Guarantee • May Lose Value.

Investing in securities involves risks, and there is always the potential of losing money when you invest in securities. Before investing, consider your investment objectives. Past performance does not guarantee future results, and the likelihood of investment outcomes are hypothetical in nature.

Damage Theory 1:

Damages related to June 13, 2022 App Failure:

Total Proceeds from *My Bundle of Joy* if it was sold on June 13, 2022 at $225 per share	$157,500
Approximate Outstanding Margin Loan on June 13, 2022	-$38,900
Net Proceeds after repaying Margin Loan	$118,600

Proceeds from the sale of *Kleen* which were retained by FSB	$400

Proceeds from the sale of *Buzzzz* which were retained by FSB	$5,000

Remaining Margin Debit Balance	$30,201

Total Damages	$124,000 and elimination of the margin debit balance of $30,201

Damage Theory 2:

Damages related to June 17, 2022 App Failure:

Total Proceeds from *My Bundle of Joy* if it the put option was exercised and the shares were sold on June 17, 2022 at $95 per share	$66,500
Approximate Outstanding Margin Loan on June 17, 2022	-$38,900
Net Proceeds after repaying Margin Loan	$27,600

Cost to purchase the put option that was not able to be exercised	$2,000

Proceeds from the sale of *Kleen* which were retained by FSB	$400

Proceeds from the sale of *Buzzzz* which were retained by FSB	$5,000

Remaining Margin Debit Balance	$30,201

Total Damages	$35,000 and elimination of the margin debit balance of $30,201

Damage Theory 3:

Damages related to FSB encouraging the unsuitable options trading:

Cost to purchase the call options	$2,000
Cost to purchase the put options	$2,000
Net cost to exercise the call options	$41,600
Proceeds from the sale of *Kleen* which were retained by FSB	$400
Proceeds from the sale of *Buzzzz* which were retained by FSB	$5,000
Remaining Margin Debit Balance	$30,201
Total Damages	$51,000 and elimination of the margin debit balance of $30,201

FINRA OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between:	:	
	:	
SHILOH PARKER,	:	
Claimant,	:	FINRA Case No. 22-021011
	:	
vs.	:	Statement of Answer and
	:	Counterclaim
FINTECH SECURITIES BROKERAGE	:	
Respondent.	:	

This Statement of Answer and Counterclaim is filed on behalf of Respondent, Fintech Securities Brokerage ("FSB"), in response to the Statement of Claim filed on behalf of Shiloh Parker

On January 18, 2022, Shiloh opened an account with FSB. Shiloh completed the application in the app, and by clicking submit, acknowledged that they received and accepted the customer agreement. The customer agreement provides that FSB is serving solely as the customer's agent; the customer is making self-directed investments based on their own investment decisions. According to the FSB customer agreement, FSB or persons acting on behalf of FSB "do not provide any investment advice or recommend any particular security, transaction, order, or any action or investment decision related to your account." Further, the customer agreement states that "You agree that FSB will not be responsible for delays or interruptions in service." Attached as Exhibit 1 is an excerpt from the FSB customer agreement, containing the relevant language.

Thereafter, Shiloh deposited $2,000 and began trading through the app. A few months later, in mid-May 2022, Shiloh deposited an additional $46,100 into their account. Shiloh then completed the options trading application through the app. In the app, Shiloh indicated their prior experience trading options was none; their other investment experience was 5 ½ months; their employment was "student and part-time worker at organic farm"; and Shiloh answered "no" when asked if they worked for a financial services firm. On the same screen, FSB provided Shiloh with a link to the pdf of the brochure, "Characteristics and Risks of Standardized Options," available at https://www.theocc.com/getmedia/a151a9ae-d784-4a15-bdeb-23a029f50b70/riskstoc.pdf.

FSB's options bot reviewed the information and approved the application. This information was later reviewed by Akira Lee, one FSB's options principals. Based on the information contained in Shiloh's application, FSB approved Shiloh for level 2 options trading, Basic Options Strategies, meaning Shiloh could purchase calls and puts, write covered calls, and write cash-covered puts.

After FSB send Shiloh notice that they were approved for options trading, Shiloh went into their account settings, and checked the box to permit trading on margin. FSB then emailed Shiloh the margin account agreement, which was also made available in the app under the "Documents" menu.

Shiloh continued trading through the app, including placing an order to exercise a call option to purchase 700 shares of *My Bundle of Joy* on margin. As there were no restrictions on the stock and Shiloh had sufficient funds in their account, FSB executed the trade. FSB did not otherwise review the appropriateness of any trades placed by Shiloh, nor did FSB provide any investment advice to Shiloh. FSB satisfied its regulatory obligations when executing the stock and options trades placed by Shiloh.

When the price of *My Bundle of Joy* declined on June 17, 2022, Shiloh entered an order to sell the stock. At about that point, Shiloh incurred a margin call because they did not have enough collateral in their account to cover the margin loan. FSB gave Shiloh the opportunity to liquidate their other holdings, and requested that additional cash be deposited in the account. After their other holdings were sold, Shiloh still owed FSB $30,000 plus interest. Pursuant to the margin agreement, interest accrues daily on margin loans at a simple rate of 3.5% annually. At that time, Shiloh owed approximately $26 in interest. Presently, Shiloh owes approximately $242 in interest.

FSB was not made aware that Shiloh had any issues accessing the FSB app or placing trades. To the extent Shiloh did have any issues, as set forth in the customer agreement, FSB is not responsible for any interruptions in service through the app.

RELIEF REQUESTED

Based upon the foregoing, FSB requests that the Statement of Claim be dismissed in its entirety. FSB also seeks an award against Shiloh Parker for compensatory damages in the amount of $30,000, interest in the amount of 3.5% annually from June 10, 2022 until the margin debit balance is paid in full, and costs and attorneys’ fees associated with the filing of this arbitration.

Fintech Securities Brokerage

Customer Agreement (revised January 5, 2022)

3. Customer Representations and Responsibilities.

A. Self-directed Account.

I understand that My Account is self-directed, and so that I am solely responsible for any and all orders placed in My Account and that all orders entered by Me or on My behalf are unsolicited and based on My own investment decisions or the investment decision of My duly authorized representative or agent. Accordingly, I agree that neither FSB nor any of its employees, agents, principals, or representatives: provide investment advice in connection with this Account; recommend any security, transaction or order; solicit orders; and make discretionary trades.

To the extent research materials or similar information are available through the App or the Website or the websites of FSB, I understand that these materials are intended for informational and educational purposes only and they do not constitute a recommendation to enter into any securities transactions or to engage in any investment strategies.

…

15. Waiver and Limitation of Liability.

I agree that My use of the App or the Website or any other service provided by FSB is at My sole risk. Although considerable effort is expended to make the Website, App and other operational and communications channels available around the clock, FSB does not warrant that these channels will be available and error free every minute of the day. I agree that FSB will not be responsible for temporary interruptions in service due to maintenance, Website or App changes, or failures, nor shall FSB be liable for extended interruptions due to failures beyond our control, including but not limited to the failure of interconnecting and operating systems, computer viruses, forces of nature, labor disputes and armed conflicts.

FINRA OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between:	:	
	:	
SHILOH PARKER,	:	
Claimant,	:	FINRA Case No. 22-021011
	:	
vs.	:	Statement of Answer to
	:	Counterclaim
FINTECH SECURITIES BROKERAGE	:	
Respondent.	:	

This Statement of Answer to Respondent's Counterclaim is filed on behalf of Claimant, Shiloh Parker in response to the counterclaim filed by Respondent, Fintech Securities Brokerage ("FSB").

As discussed in the Statement of Claim, FSB inappropriately made margin available to Shiloh. Further, because of issues with FSB's app, Shiloh was first unable to sell the stock at issue on June 13, 2022 which would have resulted in a profit, and then was unable to exercise a put option that would have permitted Shiloh to sell the stock and fully repay the margin loan.

The margin debit balance has been incurred because of misconduct on the part of FSB. Accordingly, Shiloh requests that Respondent's Counterclaim be dismissed in its entirety.

FINRA ARBITRATION Submission Agreement

Claimant(s)

In the Matter of the Arbitration Between

Name(s) of Claimant(s)
Shiloh Parker

and

Name(s) of Respondent(s)
Fintech Securities Brokerage

1. The undersigned parties ("parties") hereby submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims and/or third-party claims which may be asserted, to arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.
2. The parties hereby state that they or their representative(s) have read the procedures and rules of FINRA relating to arbitration, and the parties agree to be bound by these procedures and rules.
3. The parties agree that in the event a hearing is necessary, such hearing shall be held at a time and place as may be designated by the Director of Dispute Resolution or the arbitrator(s). The parties further agree and understand that the arbitration will be conducted in accordance with the FINRA Code of Arbitration Procedure.
4. The parties agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement. The parties further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.
5. The parties hereto have signed and acknowledged the foregoing Submission Agreement.

Shiloh Parker
Claimant Name (please print)

Shiloh Parker	August 16, 2022
Claimant's Signature	Date

State capacity if other than individual (*e.g.,* executor, trustee or corporate officer)

FINRA ARBITRATION Submission Agreement

Respondent(s)

In the Matter of the Arbitration Between

Name(s) of Claimant(s)
Shiloh Parker

and

Name(s) of Respondent(s)
Fintech Securities Brokerage

1. The undersigned parties ("parties") hereby submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims and/or third-party claims which may be asserted, to arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.
2. The parties hereby state that they or their representative(s) have read the procedures and rules of FINRA relating to arbitration, and the parties agree to be bound by these procedures and rules.
3. The parties agree that in the event a hearing is necessary, such hearing shall be held at a time and place as may be designated by the Director of Dispute Resolution or the arbitrator(s). The parties further agree and understand that the arbitration will be conducted in accordance with the FINRA Code of Arbitration Procedure.
4. The parties agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement. The parties further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the parties hereby voluntarily consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.
5. The parties hereto have signed and acknowledged the foregoing Submission Agreement.

Fintech Securities Brokerage
Respondent Name (please print)

Akira Lee, Corporate Representative August 30, 2022
Respondent's Signature Date
State capacity if other than individual (*e.g.,* executor, trustee or corporate officer)