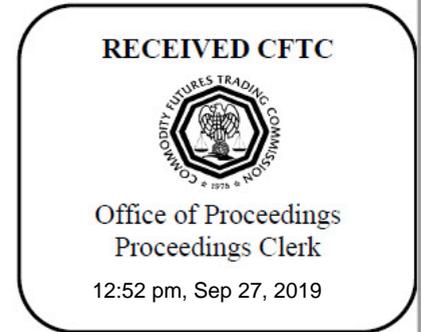




**U.S. COMMODITY FUTURES TRADING COMMISSION**

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
[www.cftc.gov](http://www.cftc.gov)

Office of Proceedings



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**SHPEND BEKTESHI,**  
Complainant,

v.

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

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**CFTC Docket No. 15-R013**  
**Served electronically &**  
**By Certified Mail**

**INITIAL DECISION AND**  
**ORDER DISMISSING COMPLAINT**

On August 28, 2015, Shpend Bekteshi, Antonella Di Guilio, and Woom Management, Inc. (Woom Management) filed a voluntary proceeding complaint, alleging that their twelve accounts were fraudulently closed by Respondent Gain Capital Group LLC (Gain Capital), which resulted in \$17,200 in damages. Each of these twelve accounts was held in only one of the three original complainants' names, so some belonged to Bekteshi, others to Di Guilio, and another to Woom Management. This Office ruled that each complainant would have to bring separate complaints for the accounts held in their names. Only Bekteshi did so, amending his complaint to refer only to the seven accounts held in his name and clarifying that the damages associated with those accounts amounted to \$2,795. Thus this reparations proceeding involves only Bekteshi's accounts and alleged damages.

As its defense against Complainant Bekteshi's allegations, Gain Capital counters that its quality control audits flagged these accounts for potential unauthorized trading activity. Gain Capital closed the accounts as a result, which it argues its Customer Agreement authorizes it to do.

For the reasons that follow, this case is dismissed.

## I. The Parties and Procedural History

### A. The Parties

Shpend Bekteshi is a resident of Clarence, N.Y., who opened seven forex trading accounts with Gain Capital on May 2013 and August 2014 through Forex.com.

Gain Capital is a CFTC-registered futures commission merchant (FCM) and registered foreign exchange dealer (RFED), and has been continuously registered since 2001. Although Bekteshi's accounts were held through Forex.com, its principal is Gain Capital, which also owns at least a 10% stake in Forex.com. Thus this Initial Decision refers to Forex.com and Gain Capital interchangeably. Forex.com is also a CFTC-registered FCM and RFED, and was at the time Bekteshi opened his accounts.

### B. Procedural History

The three above-mentioned complainants—Bekteshi, Di Guilio and Woom Management—initially brought this reparations proceeding on August 28, 2015 as a voluntary proceeding. In their joint complaint, they identified twelve accounts between the three of them. They referred to these accounts by both their account

numbers as well as other individuals' last names. For example, Bekteshi listed his first account as Account No. XXXXXXXX8 and "Noemi."

This Office issued a deficiency letter on September 28, 2015, directing the three complainants to file separate complaints detailing the damages associated with accounts opened in their name. In response, Complainant Bekteshi filed three complaint addenda on November 20, 2015 to clarify the claims with respect to his accounts. The Complaint was amended to reflect only Bekteshi's claims and damages by this Office on May 20, 2016.

Respondent filed its Answer, which changed the proceeding type from a voluntary proceeding to a summary proceeding, on July 22, 2016. This case was assigned to the Judgment Officer's docket on July 27, 2016. That same day, a Notice of Summary Proceeding was sent out, specifying that the parties had 30 days, or until August 26, 2016 to serve discovery requests on each other. Neither party served any discovery requests.

On October 5, 2016, Judgment Officer (JO) McGuire issued a notice informing the parties that this matter could be decided on the papers without a hearing and that the deadline for any additional documentary evidence or affidavits was November 15, 2016. *See* 17 C.F.R. 12.207(c). Neither party submitted any additional evidence or objected to JO McGuire's determination that a hearing was unnecessary. I construe that as consent to summary disposition by the presiding JO.

## **II. Statement of Facts**

Complainant opened seven individual, self-directed forex trading accounts with Gain Capital on March 2013 and August 2014. On June 2015, Gain Capital became aware that multiple accounts, owned by different persons, were being funded and traded from the same location and computer device. These multiple accounts included Complainant's accounts, as well as accounts belonging to Antonella Di Giulio, Woom Management, and Francesco Caravello. Upon investigation, Gain Capital learned that Di Giulio was the sole member of Woom Management and wife of Complainant Bekteshi, and Caravello was a resident of Italy. But all these accounts—Bekteshi's, Di Giulio's, Woom Management's, and Caravello's—were being traded and funded from the same device and location.

Because of the number of accounts being traded from one location, Gain Capital became concerned that Complainant was engaged in unauthorized third party trading. In accordance with Paragraph 22 of the Customer Agreement, Gain Capital sent a notice of termination to Complainant Bekteshi on July 1, 2015. Gain Capital allowed Bekteshi to close all remaining open positions by July 13, 2015. He could not open any new positions, but nothing prevented Bekteshi from reestablishing these positions at a different RFED.

Bekteshi and Di Giulio lodged a complaint about the termination decision, and Gain Capital elected to suspend liquidation until a review could be completed. Bekteshi and Di Giulio had a call with Gain's Chief Compliance Officer (CCO) on July 14, 2015, on which the CCO informed them that Gain Capital's decision to

terminate their accounts still stood. The CCO nonetheless provided them two additional weeks to close their remaining open positions. Complainant never closed his open positions, despite having four weeks from the initial notice of termination to do so. Gain Capital ultimately closed his positions and liquidated his accounts at 9:30 AM ET on July 29, 2015.

### III. Legal Analysis and Conclusions

Complainant never introduced any evidence to substantiate his claims that his accounts were improperly liquidated. He further never introduced any evidence to rebut the undisputed record that he was engaging in unauthorized third party trading. To the contrary, Complainant's own complaint and addenda to this Office make clear the accounts were being traded on behalf of other individuals, as Complainant refers to each one by an account number and last name that is not his. And because Gain Capital both had cause to believe that Complainant was acting in an unauthorized capacity, and had reserved the right to "in its sole discretion, terminate this Agreement at any time," Answer Ex. A (Customer Agreement ¶ 22), Complainant's accounts were properly terminated. No violation of the Commodity Exchange Act (CEA) or its regulations occurred.

### CONCLUSION

Because Complainant introduced no evidence that his accounts were terminated in violation of the CEA or any regulations under the Act, no damages could have been proximately caused by any such violation. This Complaint is therefore DISMISSED.

Dated: September 27, 2019

  
Kavita Kumar Puri  
Judgment Officer