

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Constantine Gus Cristo

Case Number: 19-02822

vs.

Respondents
Charles Schwab & Co., Inc.
Charles Schwab Bank
Charles Schwab Corporation
Charles Schwab Investment Management Inc
Schwab Holdings, Inc.

Hearing Site: San Diego, California

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customer vs. Member and Non-Members

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Constantine Gus Cristo (“Claimant”) appeared pro se.

For Respondents Charles Schwab & Co., Inc. (“Schwab”), Charles Schwab Bank (“CSB”), Charles Schwab Corporation (“CSC”), Charles Schwab Investment Management Inc (“CSIM”), and Schwab Holdings, Inc. (“SH”): Stacey M. Garrett, Esq., Keesal, Young & Logan, Long Beach, California.

Hereinafter, Schwab, CSB, CSC, CSIM and SH are collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: September 16, 2019.

Claimant’s Response to Respondents’ Amended Statement of Answer filed on or about: May 18, 2021.

Constantine Gus Cristo signed the Submission Agreement: September 16, 2019.

Statement of Answer filed by Respondents on or about: November 19, 2019.

Amended Statement of Answer filed by Respondents on or about: April 29, 2021.
Schwab signed the Submission Agreement: November 19, 2019.
CSB, CSC, CSIM and SH signed the Submission Agreement: November 20, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: violation of Claimant's 4th amendment rights and violation of the U.S. Constitution's Due Process Clause, as well as an allegation that the Panel is not authorized to rule on Right to Financial Privacy Act ("RFPA") violations. The causes of action relate to Schwab producing Claimant's financial documents in response to a summons from the Internal Revenue Service ("IRS").

In the Statement of Answer and Amended Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Response to Respondents' Amended Statement of Claim, Claimant asked that the Panel reconsider its prior rulings in the case.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. \$1,000,000.00 in compensatory damages;
2. \$1,500,000.00 in punitive damages; and
3. His case be declared ineligible for FINRA arbitration so that he could prosecute his claims in District Court.

In the Statement of Answer and Amended Statement of Answer, Respondents requested:

1. Dismissal of Claimant's Statement of Claim in its entirety;
2. An assessment against Claimant for all forum fees and costs; and
3. Such further relief as the Panel deems just and proper.

In Claimant's Response to Respondents' Amended Statement of Answer, Claimant requested:

1. The Panel reverse its rulings until the issues may be fully briefed;
2. The creation of a new polling for evidentiary hearing dates; and
3. The Panel reopen the discovery process such that Claimant may submit interrogatories to Respondents' staff.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On December 9, 2019, Claimant filed a Motion to Dismiss. Respondents did not file a response.

On June 22, 2020, Respondents filed a Motion to Dismiss pursuant to Rule 12504(a)(6)(B) of the Code of Arbitration Procedure ("Code"). Claimant and Respondents filed briefs regarding Respondents' motion to dismiss.

On July 8, 2020, Claimant filed a Motion to Determine Eligibility for FINRA Arbitration of Claimant's Claim. On July 13, 2020 Respondents filed their response. On July 19, 2020, Claimant filed his reply.

On March 26, 2021, the Panel held a recorded, telephonic pre-hearing conference to hear oral argument on the parties' motions. By order dated March 29, 2021, the Panel denied Claimant and Respondents' motions to dismiss without prejudice, and denied Claimant's eligibility motion with a finding that this case is eligible for arbitration, since it was directed to arbitration by a court of competent jurisdiction.

On April 19, 2021, Respondents filed a Motion for Leave to File Amended Answer. On April 26, 2021, Claimant filed his opposition. On April 28, 2021, Respondents filed their reply. By Order dated April 29, 2021, the Panel granted Respondents' motion.

The Award in this matter may be executed in counterpart copies.

FINDINGS

During the evidentiary hearing on June 28, 2021, the Panel noted that Claimant refused at all times to accept the Panel's composition, but could provide no evidence of conflict of interest for any of the panelists.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 2,000.00
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**The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Dispute Resolution Services previously deferred Claimant's filing fee of \$2,000.00. Upon conclusion of the matter, the Panel determined to waive the fee.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Schwab is assessed the following:

Member Surcharge	= \$	3,025.00
Member Process Fee	= \$	6,175.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	200.00
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Respondents submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$	200.00
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The Panel has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion fees jointly and severally to Respondents.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	4,200.00
Pre-Hearing Conferences: February 12, 2020	1 session	
April 22, 2020	1 session	
March 26, 2021	1 session	

One (1) hearing session @ \$1,400.00/session	= \$	1,400.00
Hearing: June 28, 2021	1 session	

Total Hearing Session Fees	= \$	5,600.00
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The Panel has assessed the total hearing session fees to Claimant.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Robert Rosen	-	Public Arbitrator, Presiding Chairperson
Sally G. Williams	-	Public Arbitrator
Thomas L. Marshall	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Robert Rosen

Robert Rosen
Public Arbitrator, Presiding Chairperson

08/05/2021

Signature Date

Sally G. Williams

Sally G. Williams
Public Arbitrator

08/05/2021

Signature Date

Thomas L. Marshall

Thomas L. Marshall
Public Arbitrator

08/06/2021

Signature Date

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August 06, 2021

Date of Service (For FINRA Dispute Resolution Services use only)