

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Alioune Thiam

Case Number: 19-02889

vs.

Respondent
Charles Schwab & Co., Inc.

Hearing Site: Minneapolis, Minnesota

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

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Alioune Thiam (“Claimant”) appeared pro se.

For Respondent Charles Schwab & Co., Inc. (“Respondent”): Gregory M. Scanlon, Esq., Charles Schwab & Co., Inc., Lone Tree, Colorado.

CASE INFORMATION

Statement of Claim filed on or about: September 26, 2019.
Amended Statement of Claim filed on or about: December 12, 2019.
Claimant signed the Submission Agreement: September 23, 2019.

Statement of Answer filed on or about: November 21, 2019.
Respondent signed the Submission Agreement: November 21, 2019.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action: act of fraud, act of theft, and illegal seizure. The causes of action related to Claimant’s allegations that Respondent blocked him from selling his options, which resulted in him experiencing significant financial loss. Claimant also alleged that Respondent engaged in multiple illegal activities with respect to his accounts, including theft by failing to deposit dividend payments into his accounts.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested the Panel issue findings of fact and conclusions of law that Respondent committed the alleged violations, restitution in the amount of \$160,000.00, order Respondent to restore access to his accounts to allow him to transfer those accounts to a different brokerage firm, and such other and further relief as the Panel deems to be just and necessary.

In the Statement of Answer, Respondent requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel takes notes of the Judgment issued by the Pennsylvania State Court on March 20, 2019, in Case No. 62-CV-18-7679, which denied Claimant's Motion for Default Judgment and granted Respondent's Motion to Stay All Proceedings and Compel Arbitration, and further Ordered that the parties proceed to arbitration pursuant to their arbitration agreement.

The hearing was scheduled to begin on June 28, 2021. Claimant received proper notice of the hearing date and information on how to access the videoconference. Claimant did not appear on June 28, 2021. Respondent made an oral Motion to Dismiss and for Sanctions pursuant to Rules 12212, 12504, and 12511 of the Code of Arbitration Procedure ("Code") and the Panel heard Respondent's oral argument on the Motion to Dismiss and for Sanctions. Claimant was not present to oppose the Motion to Dismiss and for Sanctions. On June 28, 2021, the Panel deferred its ruling on the Motion to Dismiss and for Sanctions but allowed Respondent to present its case. On June 29, 2021, the Claimant participated at the evidentiary hearing and presented his case-in-chief. After Claimant presented his case-in-chief, Respondent renewed its Motion to Dismiss and for Sanctions. After taking the Motion to Dismiss under advisement, the Motion to Dismiss is denied and sanctions are granted herein.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, 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. Claimant is liable for and shall pay to Respondent the sum of \$4,000.00 in attorneys' fees as discovery sanctions pursuant to Rule 12212 of the Code.

3. Claimant is liable for and shall pay to Respondent the sum of \$3,500.00 in discovery sanctions pursuant to Rule 12212 of the Code.
4. Any and all claims for relief not specifically addressed herein, 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	=\$ 1,425.00
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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 non-refundable filing fee of \$300.00. Upon conclusion of the matter, the Panel determined to assess 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, Respondent is assessed the following:

Member Surcharge	=\$ 1,700.00
Member Process Fee	=\$ 3,250.00

Discovery-Related Motion Fees

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

Three (3) decisions on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	=\$ 600.00
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Claimant submitted one (1) discovery-related motion
Respondent submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees	=\$ 600.00
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The Panel has assessed \$300.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$300.00 of the discovery-related motion fees to Respondent.

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 Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	=\$ 450.00
Pre-Hearing Conference: April 23, 2021	1 session

Five (5) pre-hearing sessions with the Panel @ \$1,125.00/session		= \$	5,625.00
Pre-Hearing Conferences:			
January 24, 2020	1 session		
July 24, 2020	1 session		
August 28, 2020	1 session		
February 9, 2021	1 session		
May 17, 2021	1 session		
Three (3) hearing sessions @ \$1,125.00/session			
Hearings:			
June 28, 2021	1 session	= \$	3,375.00
June 29, 2021	2 sessions		
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Total Hearing Session Fees		= \$	9,450.00

The Panel has assessed \$6,131.25 of the hearing session fees to Claimant.

The Panel has assessed \$3,318.75 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Grant D. Sanders	-	Public Arbitrator, Presiding Chairperson
Frederick Ramos	-	Public Arbitrator
Dana Roberts	-	Non-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

Grant D. Sanders

Grant D. Sanders
Public Arbitrator, Presiding Chairperson

08/03/2021

Signature Date

Frederick Ramos

Frederick Ramos
Public Arbitrator

08/03/2021

Signature Date

Dana Roberts

Dana Roberts
Non-Public Arbitrator

08/02/2021

Signature Date

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August 03, 2021

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