

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Ted Sartin
Ted Sartin IRA

Case Number: 19-03346

vs.

Respondent

TD Ameritrade, Inc.

Hearing Site: Birmingham, Alabama

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: Customers vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Ted Sartin and Ted Sartin IRA: Lloyd W. Gathings, II, Esq., Gathings Law, Birmingham, Alabama.

Hereinafter, Ted Sartin and Ted Sartin IRA are collectively referred to as “Claimants”.

For Respondent TD Ameritrade, Inc. (“Respondent”): Amanda Wright, Esq., TD Ameritrade, Inc., Omaha, Nebraska.

CASE INFORMATION

Statement of Claim filed on or about: November 8, 2019.

Claimants signed the Submission Agreement: November 8, 2019.

Statement of Answer filed by Respondent on or about: January 24, 2020.

Respondent signed the Submission Agreement: January 13, 2020.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence; breach of fiduciary duty; fraud; and breach of contract. The causes of action relate to alleged unauthorized transactions in Claimants' Rollover IRA.

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, Claimants requested:

1. General, compensatory, punitive, speculative, nominal and special damages;
2. Attorneys' fees;
3. Costs;
4. Interest; and
5. Such other relief as deemed just and proper.

In the Statement of Answer, Respondent requested:

1. Claims asserted in the Statement of Claim be denied;
2. All costs be assessed to Claimants; and
3. Any further relief as determined by the Panel.

OTHER ISSUES CONSIDERED AND DECIDED

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

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

FINDINGS

The Arbitration Panel finds Respondent negligent.

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. Respondent is liable for and shall pay to Claimants the sum of \$15,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants \$375.00 to reimburse Claimants for the nonrefundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure (“Code”), the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee = \$ 1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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 = \$ 1,900.00
Member Process Fee = \$ 3,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

January 26-28, 2021, postponement requested by parties = \$ 1,125.00

Total Postponement Fees = \$ 1,125.00

The Panel has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

January 26-28, 2021, cancellation requested by parties = \$ 1,800.00

Total Last-Minute Cancellation Fees = \$ 1,800.00

The Panel has assessed the total last-minute cancellation 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 Arbitrators, including a pre-hearing conference with the Arbitrators, 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: November 16, 2020 1 session

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session = \$ 3,375.00
Pre-Hearing Conferences: March 17, 2020 1 session
December 1, 2020 1 session
March 1, 2021 1 session

Six (6) hearing sessions @ \$1,125.00/session		= \$	6,750.00
Hearings:	June 1, 2021	1 session	
	June 2, 2021	2 sessions	
	June 3, 2021	2 sessions	
	July 27, 2021	1 session	

Total Hearing Session Fees	= \$	10,575.00
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The Panel has assessed \$1,350.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$9,225.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

David A. Schuler	-	Public Arbitrator, Presiding Chairperson
J. Wesley Romine, Jr.	-	Public Arbitrator
Charles Lange Clark	-	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

David A. Schuler

David A. Schuler
Public Arbitrator, Presiding Chairperson

08/01/2021

Signature Date

J. Wesley Romine, Jr.

J. Wesley Romine, Jr.
Public Arbitrator

07/30/2021

Signature Date

Charles Lange Clark

Charles Lange Clark
Public Arbitrator

07/30/2021

Signature Date

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August 02, 2021

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