

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Charles Schwab & Co., Inc.

Case Number: 20-02648

vs.

Respondent  
Clayton Wilson

Hearing Site: Denver, Colorado

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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: Member vs. Customer

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Charles Schwab & Co., Inc. (“Claimant”): Garrett R. Wynne, Esq., Charles Schwab & Co., Inc., Lone Tree, Colorado.

Respondent Clayton Wilson (“Respondent”) did not enter an appearance.

**CASE INFORMATION**

Statement of Claim filed on or about: August 17, 2020.

Claimant signed the Submission Agreement: August 17, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract and fraud. The causes of action relate to Respondent’s outstanding debit balance.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. The sum of \$93,388.94 on the unsecured debit balance in Respondent’s account;
2. A specific finding that Respondent is liable to Claimant for fraud;
3. Punitive damages;
4. Interest calculated at the California statutory prescribed interest rate of 10% from April 2, 2020, until the date of the Award, as well as post-award interest at the legal rate;

5. All fees, cost and expenses associated with this arbitration, including the FINRA filing fee, the member surcharge and all FINRA forum and hearing session fees; and
6. Such other and further relief as the Arbitrator deems appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the terms of his Schwab One Account Application Agreement, the terms of the Schwab One Account Agreement, and the Code of Arbitration Procedure ("Code"). Accordingly, Respondent is bound by the determination of the Arbitrator on all issues submitted.

Respondent did not file a Statement of Answer. The Arbitrator determined that Respondent was served with the Claim Notification letter dated September 11, 2020, the Overdue Notice (including the Statement of Claim) dated November 3, 2020, and the Notification of Arbitration dated December 2, 2020, by regular mail. The Arbitrator determined that Respondent was properly served and is therefore bound by the Arbitrator's ruling and determination.

The Claim Notification letter notified Respondent that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Respondent failed to register for the DR Portal.

Respondent did not appear at the evidentiary hearing. Upon review of the file, the Arbitrator determined that Respondent received due notice of the hearing and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code.

### **AWARD**

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

1. Respondent is liable for and shall pay to Claimant the sum of \$93,388.94 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 10.00% per annum from April 2, 2020 until the date the Award is paid in full.
3. No specific finding of fraud is made; the evidence of fraud met the preponderance of the evidence standard, but it was not clear and convincing enough to justify a specific finding of fraud.
4. 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	= \$	1,750.00
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*\*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, Claimant is assessed the following:

Member Surcharge	= \$	1,100.00
Member Process Fee	= \$	2,250.00

#### **Hearing Session Fees and Assessments**

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, 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: January 6, 2021	1 session	

One (1) hearing session @ \$450.00/session	= \$	450.00
Hearing: June 10, 2021	1 session	

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Total Hearing Session Fees	= \$	900.00
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The Arbitrator has assessed the total hearing session fees to Respondent.

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

**ARBITRATOR**

Langdon T. Owen, Jr.

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Sole 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.

**Arbitrator's Signature**

***Langdon T. Owen, Jr.***

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Langdon T. Owen, Jr.  
Sole Public Arbitrator

**06/25/2021**

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Signature Date

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.

June 25, 2021

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