

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ying Lei

Case Number: 21-00715

vs.

Respondents
TD Ameritrade, Inc.
Kwai Yun Chan
Shou Yung Hua

Hearing Site: New York, New York

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 Associated Persons

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

Claimant Ying Lei appeared pro se.

For Respondents TD Ameritrade, Inc., Kwai Yun Chan, and Shou Yung Hua: John D. Stewart, Esq., Baritz & Colman, LLP, New York, New York.

CASE INFORMATION

Amended Statement of Claim filed on or about: March 19, 2021.

Second Amended Statement of Claim filed on or about: July 28, 2021.

Ying Lei signed the Submission Agreement: March 23, 2021.

Joint Statement of Answer filed by Respondents on or about: May 13, 2021.

Joint Answer to Second Amended Statement of Claim filed by Respondents on or about: August 16, 2021.

Shou Yung Hua signed the Submission Agreement: March 29, 2021.

Kwai Yun Chan signed the Submission Agreement: May 11, 2021.

TD Ameritrade, Inc. signed the Submission Agreement: May 21, 2021.

CASE SUMMARY

In the Second Amended Statement of Claim, Claimant asserted the following causes of action: failure to supervise; fraud; manipulative and abusive misconduct; misrepresentation; omission of material facts; and suitability. The causes of action relate to BABA stock.

Unless specifically admitted in the Answer to Second Amended Statement of Claim, Respondents denied the allegations made in the Second Amended Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Second Amended Statement of Claim, Claimant requested: compensatory damages in the amount of \$150,000.00; punitive damages and lost opportunity cost in the amount of \$200,000.00; and Racketeer Influenced and Corrupt Organization (RICO) damages of \$150,000.00.

In the Answer to the Second Amended Statement of Claim, Respondents requested that the Amended and Second Amended Statement of Claim be denied with prejudice; attorneys' fees and costs; and such further relief as deemed just and proper.

Kwai Yun Chan and Shou Yung-Hua filed a request for expungement, of all references to this matter from Central Registration Depository ("CRD") registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

A Statement of Claim was filed on March 17, 2021. It was not served on Respondents and not considered by the Panel.

During the Initial Pre-Hearing Conference on July 12, 2021, Claimant made an oral motion to amend the Amended Statement of Claim. By Order dated, July 13, 2021, the Panel granted Claimant's Motion to Amend the Amended Statement of Claim.

On December 13, 2021, Respondents filed a Motion for Zoom Hearing. On December 23, 2021, Claimant filed a response opposing the Motion for Zoom Hearing. On December 27, 2021, Respondents filed a Reply in support of the Motion for Zoom Hearing. On December 27, 2021, Claimant filed a Sur-Reply and Respondents filed a Response to the Sur-Reply. On January 3, 2022, the Panel granted Respondents' Motion for Zoom Hearing.

On January 7, 2022, Respondents Kwai Yun Chan and Shou Yung Hua filed a Motion for Expungement. On January 7, 2022, Claimant filed a response opposing the Motion for Expungement. On January 8, 2022, Respondents filed a Reply in support of the Motion for Expungement and on January 12, 2022, Claimant filed a Sur-Reply. On February 2, 2022, Shou Yung Hua withdrew his request for expungement without prejudice. Therefore, the Panel made no determination with respect to Shou Yung Hua's request for expungement.

At the conclusion of Claimant's case-in-chief, Respondent TD Ameritrade, Inc. made a Motion to

Dismiss. Claimant opposed the motion. After due deliberation, the Panel granted Respondent TD Ameritrade, Inc.'s Motion to Dismiss on the grounds that the only evidence presented by Claimant was her own sworn testimony. It was not credible and was refuted by documents submitted by Respondents and used in cross-examination of Claimant.

The Panel reviewed Kwai Yun Chan's BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel noted that the dispute related to Occurrence Number 2076665 was not settled and, therefore, there was no settlement document to review.

In recommending expungement, the Panel relied upon the following documentary or other evidence: the pleadings, Kwai Yun Chan's BrokerCheck® Report, and Claimant's testimony.

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 dismissed with prejudice.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.
3. The Panel recommends the expungement of all references to the above-captioned arbitration as well as Occurrence Number 2076665 from registration records maintained by the CRD for Kwai Yun Chan (CRD Number 4077468) with the understanding that, pursuant to Notice to Members 04-16, Kwai Yun Chan must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure ("Code"), the Panel has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

The Panel has made the above Rule 2080 findings based on the following reasons:

Claimant did not present any information or testimony about Respondent Kwai Yun Chan. Nor was there credible evidence that Respondent TD Ameritrade, Inc. engaged in any of

the wrongdoing alleged. Also, there was nothing in the record to substantiate any wrongdoing by Respondent Kwai Yun Chan.

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	= \$ 1,425.00
Kwai Yun Chan Expungement 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 that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent TD Ameritrade, Inc. is assessed the following:

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

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 the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-Hearing Conference: July 12, 2021	1 session

One (1) hearing session @ \$1,125.00/session	= \$ 1,125.00
Hearing: February 3, 2022	1 session

Total Hearing Session Fees	= \$ 2,250.00
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The Panel has assessed \$1,125.00 of the hearing session fees to Claimant.

The Panel has assessed \$562.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$562.50 of the hearing session fees to Respondent TD Ameritrade, Inc.

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

ARBITRATION PANEL

Nancy Kramer	-	Public Arbitrator, Presiding Chairperson
Jess A. Bunshaft	-	Public Arbitrator
Mark Cuccaro	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Nancy Kramer

Nancy Kramer
Public Arbitrator, Presiding Chairperson

02/19/2022

Signature Date

Jess A. Bunshaft

Jess A. Bunshaft
Public Arbitrator

02/17/2022

Signature Date

Mark Cuccaro

Mark Cuccaro
Non-Public Arbitrator

02/18/2022

Signature Date

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February 22, 2022

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