

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Mesfin Solomon Shibeshi

Case Number: 21-00975

vs.

Respondent
E*Trade Securities, LLC

Hearing Site: Atlanta, Georgia

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.

REPRESENTATION OF PARTIES

Claimant Mesfin Solomon Shibeshi appeared pro se.

For Respondent E*Trade Securities, LLC (“E*Trade”): John Bersin, Esq. and Meredith Hoffman, Esq., E*Trade Securities, LLC, Menlo Park, California.

CASE INFORMATION

Statement of Claim filed on or about: April 13, 2021.

Mesfin Solomon Shibeshi signed the Submission Agreement: April 13, 2021.

Statement of Answer filed by Respondent E*Trade on or about: June 16, 2021.

Respondent E*Trade signed the Submission Agreement: June 16, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: mistake and manipulation. The causes of action relate to the buying and selling of Tesla, Inc. (“Tesla”) stock.

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, Claimant requested: 750 shares (150 shares lost prior to 5-1 stock split) of Tesla stock, worth \$496,312.00, based on the current Tesla stock price at the time of filing; filing fees; other charges applied to Claimant's account; and any costs associated with this case.

In the Statement of Answer, Respondent requested: dismissal of all claims in the Statement of Claim; assessment of all forum costs of this proceeding against Claimant; and all such other and further relief as the Panel may deem just and necessary.

At the hearing, Claimant requested: 750 shares of Tesla stock, worth \$872.44 per share on the date of the evidentiary hearing.

OTHER ISSUES CONSIDERED AND DECIDED

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

The Panel has provided an explanation of the decision in this award. The explanation is for the information of the parties only and is not precedential in nature.

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, an active trader, testified that Respondent's records show he is owed shares of Tesla stock at a price of \$872.44 per share as of the hearing date. Claimant entered into evidence Respondent's transaction history for his Tesla stock activity for 2020 and early 2021. He asserted this activity shows "negative" sells in his margin account, causing him to lose 150 shares prior to a 5-1 stock split. He also entered into evidence Respondent's compiled record of that trading for tax reporting purposes, alleging discrepancies, with the transaction history showing a reduction in his account positions. Claimant requests that 750 additional shares of Tesla stock be added to his account.

Respondent argued that its records accurately reflect Claimant's trading history and Tesla stock positions. Respondent's margin director testified that its trading system will not allow negative sells, and that its trading history report is correct. Further, any apparent differences in its tax report and trading history records merely reflect the different purposes of the two documents.

After carefully considering the testimony and documentary evidence entered, the Panel finds that Claimant is mistaken in his analysis of the documents and allegations of a shortage of Tesla stock in his account.

3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble 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 = \$ 1,425.00

**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 person at the time of the event 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

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 the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: August 18, 2021 1 session

One (1) hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00
Hearing: March 1, 2022 1 session

Total Hearing Session Fees = \$ 2,250.00

The Panel has assessed \$1,125.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,125.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Robert H. Putnam, Jr.	-	Public Arbitrator, Presiding Chairperson
Jeffrey Alperin	-	Public Arbitrator
Peggy Lewis Kennedy	-	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

Robert H. Putnam, Jr.

Robert H. Putnam, Jr.
Public Arbitrator, Presiding Chairperson

03/04/2022

Signature Date

Jeffrey Alperin

Jeffrey Alperin
Public Arbitrator

03/04/2022

Signature Date

Peggy Lewis Kennedy

Peggy Lewis Kennedy
Non-Public Arbitrator

03/04/2022

Signature Date

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March 07, 2022

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