

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

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In the Matter of the Arbitration Between:

Claimant  
Leon I. Behar

Case Number: 21-01080

vs.

Respondent  
E\*Trade Securities LLC

Hearing Site: New York, New York

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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: Customer vs. Member

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

Claimant Leon I. Behar appeared pro se.

For Respondent E\*Trade Securities LLC: John Bersin, Esq., and Meredith Hoffman, Esq., E\*Trade Securities, LLC, Jersey City, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on or about: April 23, 2021.

First Amended Statement of Claim filed on or about: July 11, 2021.

Second Amended Statement of Claim on or about: October 22, 2021.

Leon I. Behar signed the Submission Agreement: April 23, 2021.

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

E\*Trade Securities LLC signed the Submission Agreement: June 16, 2021.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; failure to timely notify client; failure to effectively notify client; violation of FINRA Rules 2010, 5310 and 3110; unconscionable contract; conversion of client's funds; trading ahead of client; and breach of contract. The causes of action relate to APPL 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 \$292,030.74 in compensatory damages or 24,000 shares of APPL stock; costs; and interest.

In the First Amended Statement of Claim, Claimant requested \$470,640.00 in compensatory damages.

In the Second Amended Statement of Claim, Claimant requested \$470,640.00 in compensatory damages; \$3,582,720.00 in consequential damages, the price for replacement of 24,000 APPL shares; and \$5,280.42 in lost dividends.

In the Statement of Answer, Respondent requested: that all claims be denied; all forum costs be assessed against Claimant; and all such other and further relief that the Panel may deem just and necessary.

At the hearing, Claimant requested \$2,266,178.00 in damages, plus interest.

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

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

On October 22, 2021 Claimant filed a Motion to Amend the First Amended Statement of Claim. On November 1, 2021, Respondent filed a response opposing the Motion to Amend. On November 3, 2021, Claimant filed a Reply to the Motion to Amend. Respondent filed a Sur-Reply and Claimant filed a Response to the Sur-Reply. By Order dated November 15, 2021, the Panel granted the Motion to Amend the First Amended Statement of Claim.

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. Any and all claims for relief not specifically addressed herein, 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 = \$ 2,025.00

*\*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 = \$ 3,200.00  
Member Process Fee = \$ 6,375.00

**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 a single Arbitrator @ \$450.00/session = \$ 450.00  
Pre-Hearing Conference: November 12, 201 1 session

One (1) pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00  
Pre-Hearing Conference: August 18, 2021 1 session

Three (3) hearing sessions @ \$1,435.00/session = \$ 4,305.00  
Hearings: November 30, 2021 2 sessions  
December 1, 2021 1 session

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Total Hearing Session Fees = \$ 5,880.00

The Panel has assessed \$2,940.00 of the hearing session fees to Claimant.

The Panel has assessed \$2,940.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Howard J. Stiefel	-	Public Arbitrator, Presiding Chairperson
Terrance J. Nolan	-	Public Arbitrator
Rajeev Suresh Shah	-	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**

***Howard J. Stiefel***

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Howard J. Stiefel  
Public Arbitrator, Presiding Chairperson

**12/09/2021**

\_\_\_\_\_  
Signature Date

***Terrance J. Nolan***

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Terrance J. Nolan  
Public Arbitrator

**12/08/2021**

\_\_\_\_\_  
Signature Date

***Rajeev Suresh Shah***

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Rajeev Suresh Shah  
Non-Public Arbitrator

**12/07/2021**

\_\_\_\_\_  
Signature Date

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December 10, 2021

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