

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Charles Schwab & Co., Inc.

Case Number: 21-01996

vs.

Respondent
Maria Esparza

Hearing Site: Phoenix, Arizona

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

This case was decided by a majority-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Charles Schwab & Co., Inc. (“Claimant”): Jonathan D. Berg, Esq., Jaffe & Asher LLP, New York, New York.

Respondent Maria Esparza (“Respondent”) did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: August 4, 2021.
Claimant signed the Submission Agreement: August 4, 2021.

Respondent did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted fraudulent transfers as the sole cause of action. The cause of action relates to Respondent’s Schwab One brokerage account (“Account”).

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages in the amount of \$128,022.85 on the unsecured debit balance in

Respondent's Account;

2. Interest calculated at the Arizona statutory prescribed interest rate of 10% per annum (A.R.S. section 44-1201(A)) from February 1, 2021, until the Award is paid in full;
3. All fees, costs and expenses associated with this arbitration, including the FINRA filing fee of \$2,125.00 and all FINRA forum and hearing session fees;
4. Attorneys' fees if Respondent contests this arbitration; and
5. Such other and further relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each 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 Code of Arbitration Procedure ("Code") and is bound by the determination of the Panel on all issues submitted.

Respondent did not file a Statement of Answer. The Panel determined that Respondent was served with the Claim Notification letter dated August 4, 2021 by regular mail, the Overdue Notice (including the Statement of Claim) dated September 27, 2021 by regular mail and FedEx, as evidenced by the FedEx delivery confirmation, and the Notification of Panel dated October 26, 2021 by regular and certified mail.

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.

On September 15, 2021, Claimant filed an Affidavit of Service on Respondent ("Affidavit"). Claimant noted that a process server was hired to personally serve Respondent with the following: a cover letter and (a) FINRA service letter dated August 4, 2021; (b) FINRA Arbitration Submission Agreement; (c) Statement of Claim with exhibits; and (d) Claimant's FINRA Arbitration Submission Agreement. Claimant's Affidavit stated that on September 5, 2021, the process server served Respondent by serving Respondent's co-resident, who accepted service.

The Panel determined that Respondent is, therefore, bound by the Panel's ruling and determination.

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

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. Respondent is liable for and shall pay to Claimant the sum of \$128,022.85 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 10% per annum from February 1, 2021 until the Award is paid in full.
3. Respondent is liable for and shall pay to Claimant \$1,000.00 to reimburse Claimant for the non-refundable portion of the filing fee previously paid to FINRA Dispute Resolution Services.
4. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, 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 = \$ 2,125.00

**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, Claimant is assessed the following:

Member Surcharge = \$ 1,700.00
Member Process Fee = \$ 3,250.00

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: November 15, 2021 1 session		
One (1) hearing session @ \$1,125.00/session	= \$	1,125.00
Hearing: February 23, 2022 1 session		
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Total Hearing Session Fees	= \$	2,250.00

The Panel has assessed \$562.50 of the hearing session fees to Claimant.

The Panel has assessed \$1,687.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Roger A. Geddes	-	Public Arbitrator, Presiding Chairperson
Sheila Grinell	-	Public Arbitrator
Glenn Allen Baker	-	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

Roger A. Geddes

Roger A. Geddes
Public Arbitrator, Presiding Chairperson

03/16/2022

Signature Date

Sheila Grinell

Sheila Grinell
Public Arbitrator

03/15/2022

Signature Date

Glenn Allen Baker

Glenn Allen Baker
Non-Public Arbitrator

03/15/2022

Signature Date

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March 17, 2022

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