Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants
Tianjian Sun
Min Zhao

vs.

Respondent
TD Ameritrade, Inc.

Case Number: 18-01404
Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member
This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Tianjian Sun, and Min Zhao: Jeffrey B. Kaplan, Esq., Dimond Kaplan & Rothstein, P.A., Miami, Florida.


CASE INFORMATION

Statement of Claim filed on or about: April 17, 2018.
Answer to Counterclaim filed on or about: August 30, 2018.
Tianjian Sun signed the Submission Agreement: April 17, 2018.
Min Zhao signed the Submission Agreement: April 17, 2018.

Statement of Answer and Counterclaim filed by Respondent on or about: July 12, 2018.
TD Ameritrade, Inc. signed the Submission Agreement: September 28, 2018.

CASE SUMMARY

Claimants asserted the following causes of action: negligence, gross negligence, negligent supervision, breach of contract. The causes of action relate to various securities.

Unless specifically admitted in their Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Respondent asserted the following cause of action in its Counterclaim: breach of contract.
Unless specifically admitted in the Answer and Affirmative Defenses to the Counterclaim, Claimants denied the allegations made in the Statement of Answer and Counterclaim and asserted various affirmative defenses.

**RELIEF REQUESTED**

In the Statement of Claim, Claimants requested damages based on fairness and equity; compensatory damages of $680,000.00; prejudgment interest at the statutory rate; disgorgement of all commissions and margin interest; punitive damages; and such additional relief as this Panel may deem appropriate.

In the Statement of Answer and Counterclaims, Respondent requested that the Panel issues an Award:

1. Denying the Statement of Claim;
2. Granting Respondent’s Counter-claim in an amount to be demonstrated, totaling approximately $180,000.00, plus interest;
3. Assessing all forum and related fees against Claimants; and
4. Such further relief as the Panel deems just and proper.

In their Answer and Affirmative Defenses to the Counterclaim, Claimants requested that the Panel denied Respondent’s Counterclaim.

**OTHER ISSUES CONSIDERED AND DECIDED**

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

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

**AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, majority of 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 Claimants the sum of $75,000.00 in compensatory damages.

2. Respondent TD Ameritrade, Inc.’s Counterclaim is denied.

3. Any and all claims for relief not specifically addressed herein, including punitive damages and attorneys’ fees, are denied.
FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

**Filing Fees**
FINRA Office of Dispute Resolution assessed a filing fee* for each claim:

- Initial Claim Filing Fee = $1,725.00
- Counterclaim 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 that employed the associated person 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 = $2,475.00
- Member Process Fee = $5,075.00

**Postponement Fees**
Postponements granted during these proceedings for which fees were assessed or waived:

- May 13-17, 2019, postponement by Claimants = $1,300.00
- Total Postponement Fees = $1,300.00

The Panel has assessed $1,300.00 of the adjournment fees jointly and severally to Claimants.

**Last Minute Cancellation Fees**
Fees apply when a hearing on the merits is postponed or settled within ten calendar days before the start of a scheduled hearing session:

- May 13-17, 2019, postponement requested by Claimants = $1,800.00
- Total Last Minute Cancellation Fees = $1,800.00

The Panel has assessed $1,800.00 of the last minute cancellation fees jointly and severally to Claimants.
**Discovery-Related Motion Fee**

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) arbitrator @ $200.00/decision = $200.00

Claimants submitted one discovery-related motion

| Total Discovery-Related Motion Fees | = $200.00 |

The Panel has assessed $50.00 of the discovery-related motion fees jointly and severally to Claimants.
The Panel has assessed $150.00 of the discovery-related motion fees to Respondent.

**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, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with the Panel @ $1,300.00/session = $1,300.00

Pre-hearing conference: July 30, 2018 1 session

Six (6) hearing sessions @ $1,300.00/session = $7,800.00

Hearing Dates:
- February 3, 2020 2 sessions
- February 4, 2020 2 sessions
- February 5, 2020 1 session
- February 6, 2020 1 session

| Total Hearing Session Fees | = $9,100.00 |

The Panel has assessed $4,550.00 of the hearing session fees jointly and severally to Claimants.
The Panel has assessed $4,550.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Office of Dispute Resolution and are due upon receipt.
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**

**Joseph H. Cerame**  
Joseph H. Cerame  
Public Arbitrator, Presiding Chairperson  
02/10/2020  
Signature Date

**Veera V. Konka**  
Veera V. Konka  
Public Arbitrator  
02/10/2020  
Signature Date

**Sidney N. Weiss**  
Sidney N. Weiss  
Public Arbitrator  
02/10/2020  
Signature Date

**Dissenting Arbitrator’s Signature**  
I dissent because I would have awarded $486,529.20 to the Claimants.

February 11, 2020  
Date of Service (For FINRA Office of Dispute Resolution office use only)