In the Matter of the Arbitration Between:

Claimant  
Charles Schwab & Co., Inc.

Case Number: 19-01970  

vs.

Respondent  
Charles Kenneth Rattley, Jr.

Hearing Site: Baltimore, Maryland

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.

REPRESENTATION OF PARTIES


Respondent Charles Kenneth Rattley, Jr. ("Respondent") did not appear.

CASE INFORMATION

Statement of Claim filed on or about: July 16, 2019.  
Claimant signed the Submission Agreement: July 16, 2019.

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

CASE SUMMARY

Claimant asserted that Respondent deposited a certified check into a Schwab One brokerage account ("Account"), which was not honored due to "fraud". Claimant alleges that, using the provisional credit he was given when he deposited the check, Respondent made unsolicited trades, transferred securities out of the Account, and withdrew funds by wire transfer and check. Claimant also alleges that Respondent refused to pay the unsecured debit balance in the Account, despite multiple demand letters.
RELIEF REQUESTED

In the Statement of Claim, Claimant requested that the Panel enter an Award against Respondent for the following: the sum of $206,918.07 on the unsecured debit balance in Respondent’s account; interest calculated at the Maryland statutory prescribed interest rate of 6% per annum from October 5, 2018, until the date of the award, as well as post-award interest at the legal rate; all fees, costs, and expenses associated with this arbitration, including the FINRA filing fee of $2,125.00, the member surcharge fee of $1,700.00, and all FINRA forum and hearing session fees; reasonable attorneys’ fees, if Respondent contests this arbitration; and 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 on August 29, 2019, Respondent was served with the Claim Notification letter dated July 17, 2019 and the Statement of Claim by a process server, as evidenced by a Return of Service filed by Claimant.

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.

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

On March 13, 2020, Claimant filed a Motion to Bar Respondent’s Defenses and to Hold the Arbitration Hearing Telephonically. No Response was filed. In an Order dated March 31, 2020, the Panel granted Claimant’s Motion to Bar Respondent’s Defenses and to Hold the Arbitration Hearing Telephonically.

Respondent did not appear at the telephonic evidentiary hearing.

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 $206,918.07 in compensatory damages.

2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 6% per annum from October 5, 2018 through and including the date the Award is paid in full.

3. Respondent is liable for and shall pay to Claimant the sum of $1,000.00 in costs as reimbursement for the non-refundable portion of the filing fee.

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 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: November 25, 2019 1 session = $ 1,125.00

One (1) hearing session @ $1,125.00/session
Hearing Date: June 2, 2020 1 session

Total Hearing Session Fees = $ 2,250.00

The Panel has assessed the total hearing session fees to Respondent.

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

Diane Ciccone - Public Arbitrator, Presiding Chairperson
Thomas J. Dolina  - Public Arbitrator
Margaret Ann Dubil  - 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

Diane Ciccone
_____________________________  06/04/2020
Diane Ciccone
Public Arbitrator, Presiding Chairperson

Thomas J. Dolina
_____________________________  06/04/2020
Thomas J. Dolina
Public Arbitrator

Margaret Ann Dubil
_____________________________  06/04/2020
Margaret Ann Dubil
Non-Public Arbitrator

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.

June 04, 2020
Date of Service (For FINRA Dispute Resolution Services use only)