

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Linda Despain and Jay Despain,
individually, and on behalf of their IRAs

Case Number: 23-03502

vs.

Respondent

Charles Schwab & Co., Inc.

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: Customers vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Linda Despain and Jay Despain, individually, and on behalf of their IRAs (collectively, “Claimants”): Matthew N. Thibaut, Esq. and Jonathan Schwartz, Esq., Haselkorn & Thibaut, P.A., Juno Beach, Florida, and David Meyer, Esq., and Courtney Werning, Esq., Meyer Wilson Co. LPA, Columbus, Ohio.

For Respondent Charles Schwab & Co., Inc.: Christopher A. Stecher, Esq. and Bailey D. Maher, Esq., Keesal, Young & Logan, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: December 11, 2023.

Linda Despain, individually, and on behalf of her IRA signed the Submission Agreement: December 11, 2023.

Jay Despain, individually, and on behalf of his IRA signed the Submission Agreement: December 11, 2023.

Statement of Answer filed by Respondent on or about: January 30, 2024.

Respondent signed the Submission Agreement: February 7, 2024.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: negligence; professional negligence; gross negligence; violations of law; negligent supervision; breach of contract; breach of fiduciary duty; and breach of securities industry rules and regulations. The causes of action relate to various unspecified securities.

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, Claimants requested:

1. General and compensatory damages in an amount of \$250,000.00 - \$260,000.00;
2. Lost opportunity costs;
3. Rescission of the improper investments;
4. Cost of proceedings;
5. Punitive damages in an amount according to proof;
6. Interest at the legal rate on all sums recovered;
7. Attorneys' fees and costs; and
8. Such other and further relief as the Panel deems just and appropriate.

In the Statement of Answer, Respondent requested:

1. All claims by Claimants be denied in their entirety and dismissed;
2. Award be entered in favor of Respondent; and
3. All costs of this arbitration be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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 \$167,950.00 in compensatory damages.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive 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
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**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 is assessed the following:

Member Surcharge	= \$ 2,025.00
Member Process Fee	= \$ 3,875.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

December 9, 2024, cancellation requested by parties	= \$ 300.00
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Total Late Pre-Hearing Cancellation Fees	= \$ 300.00
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The Panel has assessed \$150.00 of the late pre-hearing cancellation fees jointly and severally to Claimants.

The Panel has assessed \$150.00 of the late pre-hearing cancellation 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 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 a single Arbitrator @ \$450.00/session	= \$ 450.00
Pre-Hearing Conference: October 22, 2024	1 session

One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-Hearing Conference: April 3, 2024	1 session

Ten (10) hearing sessions @ \$1,125.00/session	= \$ 11,250.00
Hearings:	
February 11, 2025	2 sessions
February 12, 2025	2 sessions
February 13, 2025	2 sessions
February 14, 2025	2 sessions
February 24, 2025	2 sessions

Total Hearing Session Fees	= \$ 12,825.00
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The Panel has assessed \$6,412.50 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$6,412.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Barbara M. Zak	-	Public Arbitrator, Presiding Chairperson
Sheila Grinell	-	Public Arbitrator
Roger A. Geddes	-	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

Barbara M. Zak

Barbara M. Zak
Public Arbitrator, Presiding Chairperson

02/28/2025

Signature Date

Sheila Grinell

Sheila Grinell
Public Arbitrator

02/27/2025

Signature Date

Roger A. Geddes

Roger A. Geddes
Public Arbitrator

03/01/2025

Signature Date

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March 03, 2025

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