



**STATE OF NEW MEXICO
REGULATION AND LICENSING DEPARTMENT
SECURITIES DIVISION**

IN THE MATTER OF:	)	
	)	
TD AMERITRADE, INC.,	)	Case No. MS-23-7-10-1
	)	
RESPONDENT.	)	CONSENT ORDER

Pursuant to the authority granted to the Director (the “Director”) of the Securities Division of the New Mexico Regulation and Licensing Department (the “Division”), under the New Mexico Uniform Securities Act (NMSA 1978, §§ 58-13C-101 through 58-13C-701) (the “Act”), and after investigation, careful review, and due consideration of the facts and statutory provisions set forth below, the Director hereby finds that there is good cause, and it is in the public interest to enter into a Consent Order (the “Order”) with TD Ameritrade, Inc. (“TD Ameritrade”), which hereby agrees to resolve any and all issues in controversy regarding the specific conduct described herein on the terms set forth in this Order. As the result of a coordinated investigation, the State of New Mexico concluded that TD Ameritrade executed 252 equity transactions in New Mexico which included an unreasonable commission for services performed (*i.e.*, in excess of 5% of the principal trade amount), totaling \$3,439.97. TD Ameritrade in full settlement of these matters neither admits nor denies the Findings of Fact as set forth in Section III, and neither admits nor denies the Violations of Law set out in Section IV.

I. JURISDICTION

1. The Director has jurisdiction pursuant to the Act.
2. This offer is made in accordance with NMSA 1978, § 58-13C-604.
3. The acts and practices that are the subject of this Order occurred while TD Ameritrade was registered as a broker-dealer in New Mexico.

II. RESPONDENT

4. TD Ameritrade was a broker-dealer formerly registered in New Mexico with a main address of 200 South 108th Avenue, Omaha, Nebraska 68154. TD Ameritrade is identified by Financial Industry Regulatory Authority (“FINRA”) CRD No. 7870. TD Ameritrade has filed a Form BDW and the Securities and Exchange Commission has withdrawn its registration.

III. FINDINGS OF FACT

A. TD Ameritrade’s Minimum Commission Practices for Equity Transactions Failed to Ensure Transactions Were Executed at a Fair and Reasonable Price

5. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of June 30, 2018 to June 30, 2023 (the “Relevant Time Period”).

6. During the Relevant Time Period, TD Ameritrade executed 252 equity transactions in New Mexico which included an unreasonable commission for services performed (*i.e.*, in excess of 5% of the principal trade amount), totaling \$3,439.97.

7. During the Relevant Time Period, TD Ameritrade charged a fixed minimum commission for broker-assisted trades—*i.e.* those not placed directly online by customers (the “Minimum Equity Commission”).¹

8. The Act and the rule promulgated at 12.11.4.15 NMAC prohibit TD Ameritrade from charging unreasonable commissions for services performed.

¹ During the Relevant Time Period, over 99% of TD Ameritrade’s orders were unsolicited, self-directed trades placed online by its customers. Broker-assisted trades constituted less than 1% of the Firm’s orders. From June 2018 to October, 2019, this fee was \$44.99; and thereafter, the fee was \$25.

9. FINRA Rule 2121 Supplementary Material .01 (Rule 2121.01) sets a guideline of five percent for determining whether a commission is unfair or unreasonable. However, the “5% Policy” is a guide, not a rule. A commission of five percent or even less may be considered unfair or unreasonable, and a commission of five percent or more may be considered fair or reasonable, depending on the various circumstances.

B. TD Ameritrade Did Not Reasonably Supervise Transactions Which Applied the Minimum Equity Commission

10. TD Ameritrade did not reasonably supervise transactions that included the Minimum Equity Commission charge to ensure that TD Ameritrade charged its customers a reasonable commission.

11. TD Ameritrade’s policies and procedures contemplated review of commissions as part of normal supervisory review processes.

12. Despite these systems, TD Ameritrade’s surveillance policies failed to reasonably detect and correct unreasonable commission charges, specifically as it relates to the Minimum Equity Commission.

13. As a result, TD Ameritrade failed to adequately supervise small principal equity transactions where the Minimum Equity Commission was in excess of 5%.

IV. VIOLATIONS OF LAW

14. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

15. Pursuant to 12.11.4.10 NMAC, it is a violation of the Act for a registered broker-dealer firm to fail to establish and maintain a system to reasonably supervise its agents.

16. TD Ameritrade’s acts and practices, as described above, constitute a violation of NMSA 1978, § 58-13C-412(C)(9).

V. **ORDER**

17. On the basis of the Findings of Fact, Violations of Law, and TD Ameritrade's consent to the entry of this Order, **IT IS HEREBY ORDERED:**

- A. TD Ameritrade is censured by the Division;
- B. TD Ameritrade shall provide restitution in the amount of 3,439.97 representing the portion of the commission on certain small principal equity transactions that exceeded 5% of the principal trade amount during the Relevant Time Period to the affected New Mexico customers, plus interest in the amount of 6% from the date of the transaction to June 3, 2025. TD Ameritrade shall provide restitution within one hundred twenty (120) days of execution of this Order;
- C. Restitution shall be in the form of a check for all former customers;
- D. TD Ameritrade shall provide a notice of restitution to customers on terms not unacceptable to Massachusetts, Montana, Missouri, Alabama, Washington, Texas, and Iowa (the "Multi-State Group") ("Notice Letter"). The Notice Letter shall be sent prior to or with the distribution of any restitution. Within forty-five (45) days of the mailing of the Notice Letter, TD Ameritrade shall provide the Division with a list of all New Mexico residents for whom TD Ameritrade receives a Notice Letter as returned to sender. To the extent the Division has access to different address information, TD Ameritrade shall mail a second Notice Letter to each New Mexico resident within thirty (30) days of the Division's providing such different address;
- E. TD Ameritrade shall prepare and submit to the Director a report detailing the restitution paid pursuant to the Order, which shall include dates, amounts, and

methods of the transfer of funds for all restitution payments within forty-five (45) days of completion of distribution of restitution;

- F. TD Ameritrade shall pay an administrative fine in the amount of \$15,000 to the Division within fifteen (15) days following the date of entry of the Order. Payment shall be made to the New Mexico Regulation and Licensing Department, Securities Division, 2550 Cerillos Road, Santa Fe, NM 87505. Payment must be made by check. Payments must be accompanied by a cover letter identifying TD Ameritrade and the file number of these proceedings. A copy of the cover letter must be sent to Benjamin R. Schrope, Acting Director, Securities Division, 2550 Cerillos Road, Santa Fe, NM 87505 or by email to benjamin.schrope@rld.nm.gov;
- G. TD Ameritrade shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for any amounts that TD Ameritrade shall pay pursuant to the Order;
- H. TD Ameritrade shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to, any payments made pursuant to any insurance policy, with regard to any amount that TD Ameritrade shall pay pursuant to the Order;
- I. If TD Ameritrade is the subject of a voluntary or involuntary bankruptcy petition under Title 11 of the United States Code within three hundred sixty-five (365) days of the entry of the Order, TD Ameritrade shall provide written notice to the Division within five (5) days of the date of the petition;
- J. Any fine, penalty, and/or money that TD Ameritrade shall pay in accordance with the Order is intended by TD Ameritrade and the Division to be a contemporaneous

exchange for new value given to TD Ameritrade pursuant to 11 U.S.C. § 547(c)(1)(A) and is, in fact, a substantially contemporaneous exchange pursuant to 11 U.S.C. § 547(c)(1)(B);

- K. If TD Ameritrade fails to materially comply with any of the terms set forth in the Order, the Division may institute an action to have the Order declared null and void. Additionally, after a fair hearing and the issuance of an order finding that TD Ameritrade has not complied with the Order, the Division may move to have the Order declared null and void, in whole or in part, and re-institute the associated proceeding that had been brought against TD Ameritrade; and
- L. For good cause shown, the Division may extend any of the procedural dates set forth above. TD Ameritrade shall make any requests for extensions of the procedural dates set forth above in writing to the Director.

VI. WAIVER

17. TD Ameritrade elects to waive permanently any right to a hearing, judicial review, or appeal under NMSA 1978, §§ 58-13C-604(B), 58-13C-609, and 39-3-1.1 with respect to the entry of this Order.

VII. NO DISQUALIFICATION

18. This Order waives any disqualification in the Act, or rules or regulations thereunder, including any disqualification from relying upon the registration exemptions or safe harbor provisions to which TD Ameritrade may be subject. The Order is not intended to be a final order based upon a violation of the Act that prohibits fraudulent, manipulative, or deceptive conduct. The Order is not intended to form the basis of any disqualifications under Section 3(a)(39) of the Securities Exchange Act of 1934; or Rules 504(b)(3) and 506(d)(1) of Regulation D, Rule 262(a)

of Regulation A and Rule 503(a) of Regulation CF under the Securities Act of 1933. The Order is not intended to form the basis of disqualification under the FINRA rules prohibiting continuance in membership absent the filing of a MC-400A application or disqualification under SRO rules prohibiting continuance in membership. The Order is not intended to form a basis of a disqualification under 204(a)(2) of the Uniform Securities Act of 1956 or Section 412(d) of the Uniform Securities Act of 2002. Except in an action by the Division to enforce the obligations of the Order, any acts performed or documents executed in furtherance of the Order: (a) may not be deemed or used as an admission of, or evidence of, the validity of any alleged wrongdoing, liability, or lack of any wrongdoing or liability; or (b) may not be deemed or used as an admission of, or evidence of, any such alleged fault or omission of TD Ameritrade in any civil, criminal, arbitration, or administrative proceeding in any court, administrative agency, or tribunal.

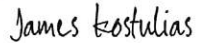
19. This Order shall be binding upon TD Ameritrade with respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

20. This Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of New Mexico without regard to any choice of law principles.

SIGNED AND ENTERED BY THE DIRECTOR this 4th day of September, 2025.


Benjamin R. Schrope
Acting Director

TD AMERITRADE, INC. by:

Signed by:

Signature: 489B78EC89C7495...

Print Name: James Kostulias

Title: Managing Director, Head of Trading Services

Dated: 9/4/2025

