



## AMERICAN ARBITRATION ASSOCIATION

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In the Matter of the Arbitration between

Case Number: 01-16-0001-6211

Maria Pupo (“Claimant”)  
-vs-

HRB Tax Group, Inc., (“Respondent”)  
and H&R Block Bank

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### AWARD OF ARBITRATOR

I, Bruce W Bennett, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into by the above-named parties, and having been duly sworn, and oral hearings having been waived in accordance with the AAA Consumer Rules, and having fully reviewed and considered the written documents submitted to me, do hereby find and AWARD, as follows:

#### **Background:**

Respondent issued an Emerald prepaid debit card to Claimant that was used to make several purchases and ATM debits. On February 16, 2016, Claimant alleged two of the purchases and six debits totaling \$711.29 were the result of fraudulent activity. The activity was timely reported to Respondent who investigated and denied the allegation. The purchases and debits were made close in time and at locations distinct from any other activity during February 2016 based on the bank statement. Respondent’s denial letter includes four reasons to reject Claimant’s allegation: (1) No personal identification number (PIN) failures, (2) No balance inquiries, (3) No PIN changes just prior to or during disputed transactions, and (4) Card still in your [Claimant’s] possession. Claimant states she never received the required denial letter that Respondent claims was sent. About a week after Respondent denied the claim Claimant filed a police report.

#### **I. Claim for denial of fraud charges and penalty under the Electronic Fund Transfer Act (EFTA):**

Respondent bears the burden of proving a transaction is not authorized. Respondent’s brief fairly raises concerns over conflicting information between its investigation and the police report; however, the report was filed after Respondent’s investigation and denial of the claim. Respondent immediately investigated the claim and interviewed Claimant by phone. The disputed charges bear the badges of fraud due to the odd timing of the transactions being bunched together in close proximity and at locales and times inconsistent with Claimant’s normal purchasing pattern. Further, the claim was filed promptly, there were no other reports of fraudulent allegations and fraudulent activity ceased as soon as the transactions were discovered. Respondent sent Claimant a Written Confirmation of Fraud form requesting additional facts presumably to follow-up on its investigation, but there is no evidence Claimant returned the form.

Claimant assisted Respondent’s investigator by providing information such as how the PIN was stored, who was given access to the PIN and if there were any suspects. However, Claimant should have complied with Respondent’s reasonable request to complete the Written Confirmation of Fraud form. It is inappropriate to ask for penalties against Respondent for failing to prove the transactions were not authorized when she did not fully assist with the investigation.

For these reasons, the transactions at issue were likely the product of fraud and Claimant’s claim for penalties for violation of the EFTA is denied.

**II. Claim for failing to send a written denial letter as required under Regulation E:**

Respondent prepared a denial letter but the evidence is conflicting and insufficient to suggest it was never sent. Respondent states it sent the letter that Claimant states she never received; however, Claimant did not file a police report until after the claims were denied. For these reasons Claimant's claim for a penalty under Regulation E for failure to send the letter is denied.

**III. Claim for attorney's fees and costs:**

Claimant is entitled to attorney's fees and costs of this arbitration for successfully bringing this action under Claim I above pursuant to 15 U.S.C. § 1693.

**AWARD**

Claimant is awarded seven hundred eleven dollars and twenty-nine cents (\$711.29) for reimbursement of fraudulent transactions on her debit card and attorney's fees of three thousand eight hundred fifty dollars (\$3,850.00). The remainder of Claimant's claims is denied.

Respondent made no claim for damages and no award for damages is made in favor of Respondent.

The administrative fees of the AAA totaling (\$1,900.00) paid solely by Respondent and the compensation of the arbitrator totaling (\$750.00) also paid solely by Respondent, shall be borne by Respondent.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

9/14/2016

\_\_\_\_\_  
Date



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Bruce W Bennett, Arbitrator