

**BEFORE THE TAX APPEAL BOARD
OF THE STATE OF DELAWARE**

AMSAVALLI BHUMINATHAN,)	
)	
Petitioners,)	
)	
v.)	Docket No. 1793
)	
STATE ESCHEATOR,)	
)	
Respondent.)	

BEFORE: Todd C. Schiltz, Esq., Steven R. Director, Esq., Joan Winters, CPA,
Robert Slavin and M. Lynn Fuller

Amsavalli Bhuminathan, *pro se*

Anthony J. Testa, Jr., Esq. and Rebecca Song, Esq., Deputy Attorneys
General, for Respondent

DECISION AND ORDER

Petitioner Amsavalli Bhuminathan (“Petitioner”) appeals from the decision of the Respondent State Escheator (“Respondent”) denying Petitioner’s request that Respondent return 685 shares of stock of Advanced Micro Devices, Inc. (the “Shares”) that were escheated to the Respondent in 2015 and sold or, in the alternative, award Petitioner the present market value of the Shares. Respondent has moved to dismiss the petition on the grounds it fails to state a claim for relief. For the reasons set forth below, the Board determines that the petition fails to state a

claim and must be dismissed.¹

STATEMENT OF FACTS

The facts set forth herein are taken from the allegations in the petition and the documents attached thereto.

Petitioner resides in Singapore. Prior to February 2015, Petitioner worked for Advanced Micro Devices (Singapore) Pte. Ltd., a subsidiary of Advanced Micro Devices, Inc. In connection with her employment, Petitioner had the right to participate in an Employee Stock Purchase Plan that allowed her to acquire stock of Advanced Micro Devices, Inc.

Prior to February 2015, Petitioner acquired the Shares through the Employee Stock Purchase Plan. Petitioner held the Shares in an account maintained by E*Trade Securities LLC, a subsidiary of Morgan Stanley. Petitioner contends that she “could not access the E-TRADE online account,” but does not explain why.

Petitioner’s E-Trade account statement reflects that: (i) on February 6, 2015, Petitioner held 685.4976 shares of Advanced Micro Devices, Inc.; (ii) on February 10, 2015, 0.4976 of those shares were sold as a “fractional liquidation” generating

¹ Respondent has also moved to dismiss the petition pursuant to Tax Appeal Board Rule 6 based on the petition’s alleged failure “to include a clear and concise statement of facts upon which Petitioner relies.” The Board rejects this argument. The petition contains clear and concise language identifying the underlying facts and the relief Petitioner seeks. The facts alleged do not give rise to a claim, but the petition satisfies the “clear and concise” standard set forth in Rule 6.

proceeds of \$1.51; and (iii) on February 20, 2015, 685 shares of Advanced Micro Devices, Inc., i.e., the Shares, were disposed of through the “Spring 2015 Escheatment to the State of DE.” Petition Ex. B at page 5 of 5. The petition contends that “[t]he stock and [\$1.51] balance was transferred by E-TRADE to OFFICE OF UNCLAIMED PROPERTY, DELAWARE DEPARTMENT OF FINANCE on 20th Feb 2015.”

Respondent sold the escheated Shares on June 10, 2015, generating proceeds of \$1,542.93. Petition Ex. D.

In May 2020, Petitioner accessed the E-Trade account, and it reflected a zero balance. In January 2021, Petitioner filed a claim with the Office of Unclaimed Property. Petition Ex. C.

In April 2021, the Office of Unclaimed Property informed Petitioner that her claim was being honored, but that all she was entitled to receive was \$1,544.44, the \$1,542.93 generated by the sale of the Shares plus the \$1.51 arising from the fractional liquidation that also had been escheated to Delaware. Respondent sent Petitioner a check for \$1,544.44 in September 2021. Petition Ex. D.

Petitioner appealed that decision to this Board, contending she is entitled to replacement securities or the present fair market value of the Shares.

PARTIES' CONTENTIONS

The petition contends the Respondent erred by selling the Shares in June 2015, just four months after the Shares were escheated to Delaware. Petition pages 3-4. Petitioner contends that 12 Del. C. § 1160 (“Section 1160”) prohibited Respondent from selling the Shares before 18 months from the date the Shares were escheated.

Petitioner cites the current version of Section 1160 to support her contention. The current version of Section 1160 was adopted in 2017, after the Shares were escheated and sold, and relates to the nature of the relief an owner can obtain when asserting a claim to escheated securities that are sold by the Respondent.² In pertinent part, current Section 1160 provides that: (a) if an owner files a claim to the securities within 18 months from the date Respondent mails notice to the owner under 12 Del. C. § 1150, another provision added in 2017, then the owner is entitled to have the securities replaced or to receive the fair market value of the securities at the time the claim is made, and (b) if the owner files a claim to the securities more than 18 months from the date Respondent mails notice to the owner under 12 Del. C. § 1150, then all the owner is entitled to receive is the net proceeds of the sale of

² Delaware’s unclaimed property laws were substantially revised in 2017 (and then again in 2021). Prior to 2017, Respondent had no statutory obligation to send notice to the beneficial owner of securities escheated to Delaware that the securities had been escheated and had no obligation to return the securities or their fair market value if the beneficial owner asserted a claim to the securities within 18 months of the issuance of that notice. Provisions addressing these issues were added to Delaware’s unclaimed property law in 2017. 12 Del. C. §§ 1150 and 1160.

the securities, plus dividends, interest and other increments to the securities up to the time they are sold.

Respondent, relying on Delaware unclaimed property laws that were in place at the time the Shares were escheated, argues that she “complied with all obligations required by Delaware law and paid Petitioner precisely the amount required by law.” Opening Brief at ¶23.

ANALYSIS

In *JLI Invest, S.A. v. Gregor*, Dkt. 1652 (Tax Appeal Board Decision and Order Jan. 18, 2017), this Board detailed the framework of Delaware’s pre-2017 unclaimed property statutes. The pre-2017 statutes required “holders,” entities that hold securities for the benefit of another, to identify securities that constitute “abandoned property” and to deliver such securities to the State Escheator, who was required to sell those securities. *Id.* at 2-9. Beneficial owners of the pre-escheated securities were entitled to submit claims for their property, but all they could recover was the sale proceeds. *Id.* Delaware’s pre-2017 unclaimed property statutes did not require the State Escheator to notify beneficial owners that the State Escheator was holding securities they beneficially owned and did not give beneficial owners the ability to recover anything other than the proceeds arising from the sale of the securities.

The Shares were escheated in 2015 and Delaware's pre-2017 unclaimed property statutes apply to this case. Based on the facts alleged in the petition, Respondent complied fully with the pre-2017 unclaimed property statutes when selling the Shares and sending Petitioner a check for \$1,544.44. Petitioner's reliance on the current version of Section 1160 is misplaced as that statute (and the notice requirement incorporated therein under 12 Del. C. § 1150) did not exist or apply at the time the Shares were escheated to Delaware.

As the petition demonstrates that Respondent complied with all Delaware unclaimed property laws that were in place at the time the Shares were escheated, the petition fails to state a claim and is dismissed.

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Jean M. Winters

M. Lynn Fuller / PCS

J. R. MWA
Robert Chain / PCS

SO ORDERED this 9th day of November, 2022.