

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Martin J. Fliegel and Rochelle Fliegel, (Claimants) vs. Charles Schwab & Co., Inc.,  
(Respondent)

Case Number: 00-01111

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimants, Martin J. Fliegel and Rochelle Fliegel, hereinafter collectively referred to as "Claimants", appeared *pro se*.

Respondent, Charles Schwab & Co., Inc., hereinafter referred to as "Respondent": Curt H. Mueller, Esq., Vice President and Senior Corporate Counsel, Charles Schwab & Co., Inc., San Francisco, CA.

**CASE INFORMATION**

Statement of Claim filed on or about: March 9, 2000.

Claimants signed the Uniform Submission Agreement: March 4, 2000.

Statement of Answer filed by Respondent on or about: May 24, 2000.

Respondent signed the Uniform Submission Agreement: May 24, 2000.

**CASE SUMMARY**

Claimants asserted the following causes of action: failure to honor Claimants' instruction to cancel a market order and violation of NASD Conduct Rule 2320. Claimants' claim involved the stock of Parallel Technologies Inc.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent played no role in the transaction at issue other than to take Claimants' order and see that it was properly executed; Claimants understood the risks of placing a market order while the markets were closed; Claimants received best execution of their order; Respondent had no duty to review the suitability of Claimants' transactions; Claimants made their request to cancel the market order in question too late; and Claimants' account agreement clearly states that any attempt to cancel a market order is simply a "request to cancel" and that cancellation of the order is not guaranteed.

### **RELIEF REQUESTED**

Claimants requested that the trade of 100,000 shares of Parallel Technologies Inc, totaling \$95,000.00 plus commissions of \$3,720.98, be cancelled from their account, thereby restoring Claimants' account to its original value prior to the occurrence of said trade. Claimants also requested restitution of all fees charged to the account, as well as arbitration and legal fees incurred in this matter.

Respondent requested that the Panel dismiss Claimants' claims in their entirety; award Respondent its costs of defense in this matter; and award Respondent such other relief as the Panel deems appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **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. Claimants' claims are hereby dismissed in their entirety.
2. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 225.00

### **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. In this matter, Charles Schwab & Co., Inc. is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750.00	= \$ 750.00
Pre-hearing conference: December 14, 2000	1 session

Two (2) Hearing sessions x \$750.00	= \$1,500.00
Hearing Date: May 1, 2001	2 sessions
Total Forum Fees	= \$2,250.00

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1. The Panel has assessed \$1,125.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$1,125.00 of the forum fees against Respondent.

### **Fee Summary**

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,350.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 375.00

2. Respondent be and hereby is solely liable for:

Member Fees	= \$3,100.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$4,225.00
<u>Less payments</u>	<u>= \$3,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,125.00

All balances are due and payable to NASD Dispute Resolution, Inc.

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**ARBITRATION PANEL**

Diane Getzler, Esq.	-	Public Arbitrator, Presiding Chair
Dorothy F. Gray, Esq.	-	Public Arbitrator
Robert B. Kane	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

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Diane Getzler, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Dorothy F. Gray, Esq.  
Public Arbitrator

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Signature Date

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*Robert B. Kane*  
Robert B. Kane  
Industry Arbitrator

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*5/18/01*  
Signature Date

May 25, 2001

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Date of Service (For NASD office use only)

**ARBITRATION PANEL**

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Dorothy F. Gray, Esq.	-	Public Arbitrator
Robert B. Kane	-	Industry Arbitrator

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Diane Getzler, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

  
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Dorothy F. Gray, Esq.  
Public Arbitrator

  
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Signature Date

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Robert B. Kane  
Industry Arbitrator

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Signature Date

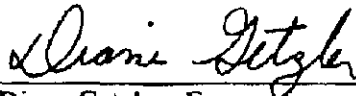
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Diane Getzler, Esq.  
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