

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

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In the Matter of the Arbitration Between:  
Mark Schneider, Claimant vs. Charles Schwab & Co., Inc., Respondent.

Case Number: 00-03373

Hearing Site: San Francisco, California

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**REPRESENTATION OF PARTIES**

For Claimant: Thomas D. Mauriello, Esq.  
San Rafael, California

For Respondent: Steve Murphy, Esq.  
Charles Schwab & Co., Inc.  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed on or about: August 2, 2000  
First Amended Statement of Claim filed on or about: April 14 and May 14, 2001  
Claimant, Mark Schneider, signed the Uniform Submission Agreement: July 29, 2000  
Statement of Answer filed by Respondent, Charles Schwab & Co., Inc. ("Schwab"), on or about:  
October 2, 2000  
Respondent, Schwab, signed the Uniform Submission Agreement: September 29, 2000

**CASE SUMMARY**

Claimant alleged that Schwab improperly held funds in his account causing Claimant's account to suffer damages. Claimant also alleged the following claims: 1) Breach of Contract; 2) Negligence; 3) Breach of Fiduciary Duty; 4) Negligent Interference With Prospective Economic Advantage; 5) Defamation; and 6) Conversion.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent also asserted affirmative defenses.

**RELIEF REQUESTED**

Claimant requested:

1. Special compensatory damages in the amount of \$15,263.00 representing the amount Mr. Schneider incurred in his payment to Vintage Insurance Marketing;

2. General compensatory damages of \$45,000.00 for the injury to Mr. Schneider's good name and reputation and for his severe humiliation, mental distress and suffering;
3. An award of exemplary or punitive damages of \$45,000.00;
4. An award of fair compensation for the time and money properly expended in pursuit of the property;
5. Costs of suit, including reasonable attorneys' fees in an amount to be proved at the arbitration hearing;
6. An award of prejudgment interest at the rate of 10%, running from September 30, 1999 to the date of the award; and
7. Such other relief as the arbitrators may find appropriate under the circumstances.

Respondent requested:

1. That Mr. Schneider's claims be denied in their entirety;
2. That Schwab be awarded all of its costs associated with this arbitration; and
3. All other relief as the arbitration panel deems proper.

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

The Panel waived the forum fee with respect to the pre-hearing session held May 9, 2001.

On or about May 14, 2001, the Panel granted Claimant's motion for leave to amend his Statement of Claim.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims by Claimant, including the claims for punitive and exemplary damages, are dismissed.
2. Each party shall bear its own costs, including attorney's fees.
3. All other relief not expressly granted is denied.

#### **FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

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

Initial claim filing fee = \$175.00

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$800.00
Pre-hearing process fee	= \$600.00
<u>Hearing process fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,400.00

**Forum Fees and Assessments**

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

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$2,250.00
Pre-hearing conferences:	
January 31, 2001	1 session
May 14, 2001	1 session
Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates:	
May 23, 2001	2 sessions
May 24, 2001	2 sessions
<hr/> Total Forum Fees	<hr/> = \$6,750.00

1. The Panel has assessed \$3,375.00 of the forum fees to Claimant.
2. The Panel has assessed \$3,375.00 of the forum fees to Respondent.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

The parties did not incur administrative costs.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$3,375.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$3,550.00
<u>Less payments</u>	= \$ 775.00
Balance Due NASD-DR	= \$2,775.00

2. Respondent is charged with the following fees and costs:

Member Fees	= \$2,400.00
Forum Fees	= \$3,375.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$5,775.00
<u>Less payments</u>	= \$3,000.00
Balance Due NASD-DR	= \$2,775.00

All balances are payable to NASD Dispute Resolution, Inc. and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Peter Kassel

Reed H. Bement, Esq.

Bryan W. Brown

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Peter Kassel

Public Arbitrator, Presiding Chair

Signature Date

Reed H. Bement, Esq.

Public Arbitrator

Signature Date

**Fee Summary**

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<u>Less payments</u>	= \$ 775.00
Balance Due NASD-DR	= \$2,775.00

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Member Fees	= \$2,400.00
Forum Fees	= \$3,375.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$5,775.00
<u>Less payments</u>	= \$3,000.00
Balance Due NASD-DR	= \$2,775.00

All balances are payable to NASD Dispute Resolution, Inc. and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Peter Kassel	-	Public Arbitrator, Presiding Chair
Reed H. Bement, Esq.	-	Public Arbitrator
Bryan W. Brown	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Peter Kassel  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

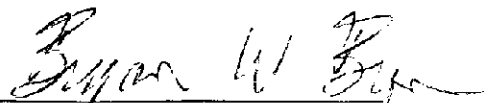
Reed H. Bement  
Reed H. Bement, Esq.  
Public Arbitrator

6/18/01  
Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 00-03373

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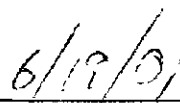
Bryan W. Brown

Non-Public Arbitrator

Date Served:

JUN 28 2001

Date of Service (For NASD office use only)



Signature Date