

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

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In the Matter of the Arbitration Between:

Business Data Professionals Defined Benefit Pension Plan by Klaus Von Schiber, Trustee,  
(Claimant) vs. Charles Schwab & Co., Inc., (Respondent)

Case Number: 00-04842

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, Business Data Professionals Defined Benefit Pension Plan by Klaus Von Schiber, Trustee, hereinafter referred to as "Claimant": Brian J. Neville, Esq., Kogan Taubman & Neville, LLC, New York, NY.

Respondent, Charles Schwab & Co., Inc., hereinafter referred to as "Respondent": Sean B. Meehan, Esq., Corporate Attorney, Charles Schwab & Co., Inc., San Francisco, CA.

**CASE INFORMATION**

Statement of Claim filed on or about: October 25, 2000.

Claimant signed the Uniform Submission Agreement: October 30, 2000.

Statement of Answer filed by Respondent on or about: January 26, 2001.

Respondent signed the Uniform Submission Agreement: January 26, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: unauthorized trading; violations of Sections 10b-5 and 20a of the Securities Exchange Act of 1934; breach of fiduciary duty; common law fraud; breach of contract; negligence; failure to supervise; and fraudulent inducement. Claimant's claim involved Dell Computers call options.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: there is no merit to the claim that Respondent caused damages to Claimant or Claimant's account; Respondent had a contractual right to remove the transactions in question from Claimant's account, as said transactions violated Respondent's house trading rules; and Respondent incurred the only losses associated with the disputed transactions.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$52,000.00, plus punitive damages, costs, interest, and such other and further relief as the Panel may deem just and proper.

Respondent requested that Claimant's claim be dismissed in its entirety.

### **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. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$5,000.00 as compensatory damages.
2. Claimant's request for punitive damages is hereby denied.
3. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$225.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
4. All other requests for relief are hereby denied.

### **FEEES**

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
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### **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: June 21, 2001	1 session
Two (2) Hearing sessions x \$750.00	= \$1,500.00
Hearing Date: October 23, 2001	2 sessions
Total Forum Fees	= \$2,250.00

The Panel has assessed all of the forum fees against Respondent.

### **Fee Summary**

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
Refund Due Claimant	= \$ 750.00

*As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$225.00 filing fee.*

2. Respondent be and hereby is solely liable for:

Member Fees	= \$3,100.00
<u>Forum Fees</u>	<u>= \$2,250.00</u>
Total Fees	= \$5,350.00
<u>Less payments</u>	<u>= \$3,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

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

**ARBITRATION PANEL**

Edward Baer, Esq.	-	Public Arbitrator, Presiding Chair
Lawrence A. Pittore, Esq.	-	Public Arbitrator
Larry A. Kimmel	-	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.



Edward Baer, Esq.  
Public Arbitrator, Presiding Chair

11-14-01  
Signature Date

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Lawrence A. Pittore, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Larry A. Kimmel  
Industry Arbitrator

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

\_\_\_\_\_  
November 27, 2001

\_\_\_\_\_  
Date of Service (For NASD office use only)

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**ARBITRATION PANEL**

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Edward Baer, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date



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Lawrence A. Pittore, Esq.  
Public Arbitrator

11/12/01  
Signature Date

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Larry A. Kimmel  
Industry Arbitrator

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Signature Date

November 27, 2001

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Date of Service (For NASD office use only)

**ARBITRATION PANEL**

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Edward Baer, Esq.  
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Signature Date

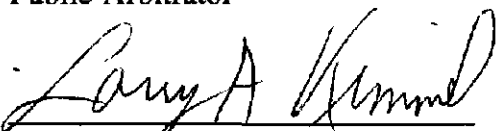
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Lawrence A. Pittore, Esq.  
Public Arbitrator

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Signature Date

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Larry A. Kimmel  
Industry Arbitrator

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11/20/01  
Signature Date

November 27, 2001

Date of Service (For NASD office use only)