

PACIFIC EXCHANGE, INC.
301 Pine Street
San Francisco, California 94104

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DEC 04 2000

In The Matter Of The Arbitration Between:

PCX ARBITRATION

PCX CASE No. 00-S018

DECISION

Claimant

v.

CHARLES SCHWAB & CO., INC.,

Respondent

The undersigned Arbitrator, having read and considered the claim submitted by [REDACTED] ("Claimant" or "[REDACTED]") on June 16, 2000, the Answer of Charles Schwab & Co. ("Respondent" or "Schwab"), and the response of [REDACTED] hereby renders the following decision pursuant to Rules 12.2 and 12.29(a) of the Rules of the Board of Governors of the Pacific Exchange:

REPRESENTATION OF PARTIES

Of Claimant:

Of Respondent:

Lowell Haky, Esq. and Amir Tadjedin, Esq.
Charles Schwab & Co., Inc.

SUMMARY OF FACTS

[REDACTED] accepted a tender offer received from Schwab to sell his 500 shares of Applied Magnetics Corp ("APM") through Schwab at \$4.00 per share on June 21, 1999. Unbeknownst to him, the offer was withdrawn on June 15, 1999. [REDACTED] claims damages from Schwab for negligence in handling this transaction.

Schwab claims no responsibility, no contract, and that [REDACTED] is totally responsible for his losses. Schwab offered [REDACTED] \$212.50 to settle the matter despite claiming that [REDACTED] case is without merit.

ISSUES PRESENTED

Did Schwab owe any duty to [REDACTED] after mailing [REDACTED] the APM offer?
Did [REDACTED] act reasonably in mitigating his losses?
Was Schwab negligent in handling the APM offer to [REDACTED]?

RELIEF REQUESTED

█ requests \$3,050.00, representing the tender offer price of \$4.00 per share for 500 shares, punitive damages and arbitration costs.

Schwab offers nothing and requests costs.

FINDINGS AND DECISION

After considering the argument and evidence of █ and of Schwab in this matter, I find the following:

1. Schwab owed a duty to █ to assist him in curbing his losses.
2. █ expended best efforts and reasonable actions on his own account considering the circumstances in which he found himself.
3. Schwab was not negligent but forgot "The customer is always right."

AWARD

APM shares value June 21, 1999	\$3.375 (per share)
APM shares value August 25, 1999	<u>1.250 (per share)</u>
Loss	\$2.125 (per share)
Number of shares	<u>X 500</u>
	\$1,062.50 (total loss)
Value to █	<u>20.00 (sale of stock)</u>
Award	\$1,042.50 plus 10% APR
	From August 25, 1999
	to date received by
	█

In addition to the above, Schwab shall reimburse █ \$125.00 for arbitration costs (\$50.00 filing fee and \$75.00 hearing session deposit).

Punitive damages are DENIED.

This matter will not be referred to any regulatory organization (SRO or SEC) for disciplinary investigation of rule violations.

Dated

12/1/00

Neill Edward Hannon
Neill Edward Hannon, Arbitrator