

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Charles Schwab & Co., Inc., Claimant v. John Wesley Logan, Respondent

John Wesley Logan, Counter-Claimant v. Charles Schwab & Co., Inc., Counter-Respondent

John Wesley Logan, Earl Woolwine, Harold Dorris, and Anne Dorris Woolwine, Third Party Claimants v. Ernest M. Dill, Third Party Respondent

Case Number: 01-01714

Hearing Site: Seattle, Washington

Nature of the Dispute: Member v. Associated Person

Nature of the Dispute: Associated Person v. Member

Nature of the Dispute: Associated Person and Customers v. Associated Person

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondent Charles Schwab & Co., Inc.: Richard A. Karoly, Esq.
Charles Schwab & Co., Inc.
San Francisco, California

For Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan and Third Party Claimants Earl Woolwine, Harold Dorris, and Anne Dorris Woolwine: Holland & Knight
Seattle, Washington

For Third Party Respondent Ernest M. Dill: Katherine Hendricks, Esq.
Hendricks & Lewis
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: April 3, 2001

Claimant/Counter-Respondent Charles Schwab & Co., Inc.'s Uniform Submission Agreement signed: April 3, 2001

Statement of Answer and Counterclaim filed by Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan: June 29, 2001

Statement of Answer in Response to Counterclaim filed by Claimant/Counter-Respondent Charles Schwab & Co., Inc.: July 20, 2001

Amended Statement of Answer and Amended Counterclaim, Third Party Claim, and Joinder of Third Party Claimants filed by Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan and Third Party Claimants Earl Woolwine, Harold Dorris, and Anne Dorris Woolwine: November 27, 2001

Joint Uniform Submission Agreement signed (but not dated) by Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan, Third Party Claimant Earl Woolwine, Third Party Claimant Harold Dorris, and Third Party Claimant Anne Dorris Woolwine

Third Party Respondent Ernest M. Dill's Statement of Answer to Respondent/Counter-Claimant/Third Party Claimant and Third Party Claimants' Third Party Claim: March 26, 2002

Third Party Respondent Ernest M. Dill's Uniform Submission Agreement signed: March 21, 2002

CASE SUMMARY

Claimant/Counter-Respondent alleged that Respondent/Counter-Claimant/Third Party Claimant failed to pay Claimant/Counter-Respondent a debit balance that was owed to it. Claimant/Counter-Respondent's allegations involved individual stocks such as SDL, Inc., PMC Sierra, Applied Micro, Carrier Access Corporation, Cisco Systems, Intel Corporation, Newport Corporation, and American Express Company.

Respondent/Counter-Claimant/Third Party Claimant denied the allegations of wrongdoing set forth in Claimant/Counter-Respondent's Statement of Claim and asserted various affirmative defenses.

Respondent/Counter-Claimant/Third Party Claimant alleged in his Counterclaim that Claimant/Counter-Respondent was liable for tortious interference with business relations, mismanagement and misappropriation of funds, and violation of NASD and NYSE rules. Respondent/Counter-Claimant/Third Party Claimant's allegations involved SDL, Inc. stock.

Claimant/Counter-Respondent denied the allegations of wrongdoing set forth in Respondent/Counter-Claimant/Third Party Claimant's Counterclaim.

Respondent/Counter-Claimant/Third Party Claimant's Amended Answer denied the allegations of wrongdoing set forth in Claimant/Counter-Respondent's Statement of Claim and asserted various affirmative defenses.

Respondent/Counter-Claimant/Third Party Claimant's Amended Counterclaim alleged that Claimant/Counter-Respondent was liable for trading losses and expenses due to mistaken and duplicative trading effected by Claimant/Counter-Respondent's traders.

Respondent/Counter-Claimant/Third Party Claimant's Third Party Claim against Third Party Respondent alleged violations of the Washington State Securities Act, Washington Consumer Protection, Washington common law, defamation, and violation of right to privacy.

Respondent/Counter-Claimant/Third Party Claimant's Joinder of Third Party Claimants Earl Woolwine, Harold Dorris, and Anne Dorris Woolwine alleged that Earl Woolwine, Harold Dorris, and Anne Dorris Woolwine were the beneficiaries of a family trust of which Respondent/Counter-Claimant/Third Party Claimant served as trustee, and thus they were asserting the same causes of action against Third Party Respondent as Respondent/Counter-Claimant/Third Party Claimant.

Third Party Respondent denied the allegations set forth in Respondent/Counter-Claimant/Third Party Claimant and Third Party Claimants' Third Party Claim.

RELIEF REQUESTED

In its Statement of Claim, Claimant/Counter-Respondent requested \$140,184.97 in compensatory damages, pre-judgment interest at a rate of eight percent per annum, forum fees, and costs.

Respondent/Counter-Claimant/Third Party Claimant requested dismissal of Claimant/Counter-Respondent's Statement of Claim in its entirety, forum fees, and costs, including attorney's fees.

In his Counterclaim, Respondent/Counter-Claimant/Third Party Claimant requested \$1,182,338.13 in compensatory damages, \$1,638,000.00 in treble damages, forum fees, and costs, including attorney's fees.

Claimant/Counter-Respondent requested dismissal of Respondent/Counter-Claimant/Third Party Claimant's Counterclaim and costs.

Respondent/Counter-Claimant/Third Party Claimant and Third Party Claimants in their Amended Statement of Answer, Amended Counterclaim, and Joinder of Third Party Claimants requested: (a) unspecified compensatory damages on the Counterclaim; (b) \$84,000 in compensatory damages to Respondent/Counter-Claimant/Third Party Claimant on the Third Party Claim; and (c) \$658,000.00 in compensatory damages to Third Party Claimants on the Third Party Claim, and costs, including attorney's fees.

Third Party Respondent requested dismissal of Respondent/Counter-Claimant/Third Party Claimant and Third Party Claimants' Third Party Claim.

OTHER ISSUES CONSIDERED AND DECIDED

On November 27, 2001, Respondent/Counter-Claimant/Third Party Claimant filed an Amended Statement of Answer and Amended Counterclaim pursuant to NASD Code of Arbitration Procedure Rule 10328(a).

By letter dated June 13, 2002, Claimant/Counter-Respondent notified NASD that it had settled its claims with Respondent/Counter-Claimant/Third Party Claimant and accordingly would not be participating in the evidentiary hearing in this matter. Under the same cover, Claimant/Counter-Respondent requested that the panel issue a Stipulated Award confirming the terms of the Claimant/Counter-Respondent and Respondent/Counter-Claimant/Third Party Claimant's settlement agreement. By letter dated October 14, 2004, Claimant/Counter-Respondent notified NASD that it had resolved this matter with Respondent/Counter-Claimant/Third Party Claimant; thus, a Stipulated Award was no longer needed.

By letters dated June 19, 2002 and June 26, 2002, Third Party Respondent Ernest M. Dill moved the Panel to allow him to file counterclaims against Third Party Claimants. On June 28, 2004, Third Party Claimants filed a response to the motion. On July 3, 2002, Third Party Respondent and Third Party Claimants submitted letters in support of their positions. On July 5, 2002, the Panel advised the parties that it would hear oral argument on Third Party Respondent's motion at the evidentiary hearing on July 8, 2002. At the evidentiary hearing on July 8, 2002, the Panel decided to continue the evidentiary hearing until December 2002 in order to allow Third Party Respondent to file counterclaims against Third Party Claimants.

On September 30, 2002, Third Party Respondent Ernest M. Dill filed a Motion to Dismiss the third party claims that had been filed against him or in the alternative, for leave to assert counterclaims against Third Party Claimants. On October 15, 2002, Third Party Claimants filed their Opposition to this motion. On October 25, 2002, Third Party Respondent Ernest M. Dill filed a Reply in support of his motion. On November 4, 2002, Third Party Claimants filed a Sur-Reply to Third Party Respondent Ernest M. Dill's Reply. On December 2, 2002, the Panel issued an Order dismissing this matter without prejudice to any of the named parties to pursue any and all disputes they may have in a judicial forum.

On December 6, 2002, Third Party Claimants filed a Motion for Reconsideration of the Panel's dismissal without prejudice of the claims between Third Party Claimants and Third Party Respondent, Ernest M. Dill. On December 11, 2003, Third Party Respondent Ernest M. Dill submitted a response to Third Party Claimants' Motion. On February 7, 2003, the Panel issued an Order denying Third Party Claimants' Motion for Reconsideration and upholding the Panel's December 2, 2002 Order dismissing the third party claims.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims between Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan, Third Party Claimant Earl Woolwine, Third Party Claimant Harold Dorris, Third Party Claimant Anne Dorris Woolwine and Third Party Respondent Ernest M. Dill are dismissed without prejudice to filing all claims that these parties may have against one another in court.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 1,000.00
Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan's Counterclaim filing fee	= \$ 500.00
Third Party Claimants' filing fee	= \$ 375.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Charles Schwab & Co., Inc. is a party, and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
Total Member Fees	= \$ 5,600.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: February 26, 2002 1 session	

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One (1) hearing session @ \$1,200.00/session	= \$ 1,200.00
Hearing: July 8, 2002 1 session	
Total Forum Fees	= \$ 2,400.00

1. The Panel assessed \$400.00 of the forum fees to Claimant/Counter-Respondent Charles Schwab & Co., Inc.
2. The Panel assessed \$1,000.00 of the forum fees to Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan.
3. The Panel assessed \$1,000.00 of the forum fees to Third Party Respondent Ernest M. Dill.

Fee Summary

1. Claimant/Counter-Respondent Charles Schwab & Co., Inc. is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,600.00
<u>Forum Fees</u>	<u>= \$ 400.00</u>
Total Fees	= \$ 7,000.00
<u>Less payments</u>	<u>= \$(6,725.00)</u>
Balance Due NASD Dispute Resolution	= \$ 275.00

2. Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan and Third Party Claimants Earl Woolwine, Harold Dorris, and Anne Dorris Woolwine are charged jointly and severally with the following fees and costs:

<u>Third Party Claim Filing Fee</u>	<u>= \$ 375.00</u>
Balance Due NASD Dispute Resolution	= \$ 375.00

3. Respondent/Counter-Claimant/Third Party Claimant John Wesley Logan is charged with the following fees and costs:

Counter-Claim Filing Fee	= \$ 500.00
Forum Fees	= \$ 1,000.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,500.00

4. Third Party Respondent Ernest M. Dill is charged with the following fees and costs:

<u>Forum Fees</u>	<u>= \$ 1,000.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,000.00

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

ARBITRATION PANEL

William P. Bergsten, Esq.
Richard D. Brady, Esq.
William J. Rex

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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


William P. Bergsten, Esq.
Chair, Public Arbitrator

10-19-04
Signature Date

Richard D. Brady, Esq.
Public Arbitrator

Signature Date

William J. Rex
Non-Public Arbitrator

Signature Date

10/21/04
Date of Service

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