

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

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**In the Matter of the Arbitration Between**

**Name of Claimant**

Gary W. Donner

Case No. 01-02369

**Names of Respondents**

Charles Schwab & Company, Inc.  
Robert Lamb

**Hearing Site:** Atlanta, Georgia

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**REPRESENTATION OF PARTIES**

For Gary W. Donner ("Donner"), hereinafter referred to as "Claimant": Scott A. Wallace, Esq. of Smith, Gilliam, Williams & Miles, P.A., Gainesville, Georgia.

For Charles Schwab & Company, Inc. ("Schwab") and Robert Lamb ("Lamb"), hereinafter collectively referred to as "Respondents": Beth Greenspan, Esq., Schwab, San Francisco, California.

**CASE INFORMATION**

Statement of Claim filed on or about: May 1, 2001.

Amended Statement of Claim filed on or about: June 15, 2001.

Claimant's Response to Respondents' Motion to Dismiss Robert Lamb filed on or about: June 18, 2001.

Claimant signed the Uniform Submission Agreement: April 27, 2001.

Statement of Answer and Motion to Dismiss Robert Lamb filed by Respondents on or about: June 11, 2001.

Respondent Schwab signed the Uniform Submission Agreement: June 11, 2001.

Respondent Lamb signed the Uniform Submission Agreement: July 2, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to follow trading instructions; misrepresentation; breach of fiduciary duty; and negligence. The causes of action relate to Respondents' failure to follow Claimant's instructions to wire \$11,500.00 from his Schwab account to his account at discountbroker.com.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses. Further, Respondents asserted a motion to dismiss Respondent Lamb which alleged there is no legal or factual basis to assert personal liability against Respondent Lamb.

### **RELIEF REQUESTED**

Claimant requested the sum of \$20,000.00, representing his loss from the transaction at issue, as well as costs, attorneys' fees and punitive damages.

Respondents requested that Claimant's claims be dismissed in their entirety; that all costs of this arbitration be assessed to Claimant; and, that Robert Lamb be dismissed as a Respondent.

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

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

On or about January 14, 2002, the parties filed with NASD Dispute Resolution, Inc. a Stipulated Award and Order of Expungement.

On or about February 11, 2002, Claimant informed NASD Dispute Resolution, Inc. that he had dismissed, with prejudice, all claims pending against Respondents.

### **AWARD**

After considering the pleadings and the Stipulated Award and Order of Expungement, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant dismisses, with prejudice, all claims asserted against Respondents.

The Arbitrator recommends the expungement of all references to the above captioned arbitration from Respondent Robert Lamb's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Robert Lamb must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all requests for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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 = \$75.00

#### **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 = \$300.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

#### **Forum Fees and Assessments**

The arbitrator 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 Pre-hearing sessions with a single arbitrator x \$450.00	= \$900.00
Pre-hearing conferences: December 12, 2001	1 session
January 15, 2002	1 session

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Total Forum Fees	= \$900.00
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Pursuant to the agreement of the parties, Respondent Schwab is assessed the total forum fees of \$900.00

#### **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.

There were no administrative costs incurred during these proceedings.

### Fee Summary

**Claimant be and hereby is solely liable for:**

**Initial Filing Fee** = \$75.00

**Total Fees** = \$75.00

Less payments = \$75.00

Balance Due NASD Dispute Resolution, Inc.	= \$0.00
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**Respondent Schwab be and hereby is solely liable for:**

**Member Fees** = \$300.00

**Forum Fees** = \$900.00

**Total Fees = \$1,200.00**

Less payments = \$300.00

Balance Due NASD Dispute Resolution, Inc.	= \$900.00
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**All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon the parties' receipt of the Award pursuant to Rule 10330(g) of the Code.**

## ARBITRATION PANEL

**John D. Mattingly, J.D.**

Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

/S/  
John D. Mattingly, J.D.  
Public Arbitrator, Presiding Chair

**Signature Date**

March 5, 2002

**Date of Service** (For NASD-Dispute Resolution office use only)

### Fee Summary

**Claimant be and hereby is solely liable for:**

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**Total Fees = \$75.00**

Less payments = \$75.00

Balance Due NASD Dispute Resolution, Inc.	= \$0.00
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**Forum Fees** = \$900.00

**Total Fees = \$1,200.00**

Less payments = \$300.00

Balance Due NASD Dispute Resolution, Inc.	= \$900.00
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**ARBITRATION PANEL**

**John D. Mattingly, J.D.**

Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

~~John D. Mattingly, I.D.~~

Public Arbitrator, Presiding Chair

3-1-02  
Signature Date

**Date of Service** (For NASD-Dispute Resolution office use only)