

**STIPUATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Charles Schwab & Co.

and

Case Number: 02-05823  
Hearing Site: Detroit Michigan

Name of Respondent

Greg G. Cutler

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**REPRESENTATION OF PARTIES**

Charles Schwab & Co. ("Claimant") was represented by Brandon K. Hemley, Esq., Charles Schwab & Co., Inc., San Francisco, California.

Greg G. Cutler ("Respondent") appeared in pro per.

**CASE INFORMATION**

The Statement of Claim was filed on or about October 1, 2002. The Submission Agreement of Claimant Charles Schwab & Co. was signed on or about September 27, 2002, by Brandon K. Hemley, Corporate Counsel.

Respondent filed a Motion to Bar and Renewal of Motion for Telephonic Hearing on or about April 29, 2003.

No Statement of Answer was filed by Respondent Greg G. Cutler.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract, conversion, unjust enrichment, and imposition of trust pursuant to California Civil Code Section 2224. The causes of action relate to Respondent's alleged failure to repay the debit balance in his Schwab One Account.

**RELIEF REQUESTED**

Claimant requested an award in the amount of \$102,141.66, plus interest at 5.62% from August 1, 2002, until the principal damages are paid in full, filing costs and additional arbitration fees, punitive damages, and such other and further relief as the Panel may deem just and proper.

### OTHER ISSUES CONSIDERED & DECIDED

Respondent Greg G. Cutler did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code"), and the Account Agreement, and having appeared on March 10, 2003, and testified at the hearing on May 22, 2003, is bound by the determination of the arbitration panel on all issues submitted.

NASD Dispute Resolution was advised that the parties reached a settlement on or about May 1, 2003. On or about May 6, 2003, Claimant withdrew the Motion to Bar and requested entry of the Settlement Agreement on the record via a telephonic hearing. The Panel granted the request and ordered that the May 22, 2003, hearing be conducted telephonically.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Respondents, Greg G. Cutler, is liable for and shall pay to Claimant, Charles Schwab & Co., the sum of \$102,141.66;
- 2.) Respondents, Greg G. Cutler, is liable for and shall pay to Claimant, Charles Schwab & Co., interest on \$102,141.66 at the rate of 5.62% per annum pursuant to the Account Agreement, from and including August 1, 2002, through and including the date this award is paid in full;
- 3.) Respondents, Greg G. Cutler, is liable for and shall pay to Claimant, Charles Schwab & Co., the sum of \$7,325.00 in costs pursuant to the Account Agreement;
- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 5.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

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

Initial claim filing fee = \$1,000.00

#### 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, the member firm is Charles Schwab & Co.

Member surcharge = \$ 1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 2,750.00

#### Forum Fees and Assessments

The Arbitration Panel assesses 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:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00  
Pre-hearing conference: March 10, 2003 1 session  
One (1) Hearing session x \$1,125.00 = \$ 1,125.00  
Hearing Date: May 22, 2003 1 session  
Total Forum Fees = \$ 2,250.00

The Arbitration Panel has assessed \$1,125.00 of the forum fees to Charles Schwab & Co.  
The Arbitration Panel has assessed \$1,125.00 of the forum fees to Greg G. Cutler.

### Fee Summary

Claimant, Charles Schwab & Co., is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 7,325.00
Less payments	= \$ 4,575.00
Balance Due NASD Dispute Resolution	= \$ 2,750.00

Respondent, Greg G. Cutler, is liable for:

Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

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

**ARBITRATION PANEL**

Jeffrey M. Bauer, Esq. - Public Arbitrator, Presiding Chair  
Verne C. Hampton, II, Esq. - Public Arbitrator  
Steven D. Arkwright - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ Jeffrey M. Bauer, Esq.  
Jeffrey M. Bauer, Esq.  
Public Arbitrator, Presiding Chair

05/23/03  
Signature Date

/s/ Verne C. Hampton, II, Esq.  
Verne C. Hampton, II, Esq.  
Public Arbitrator

05/23/03  
Signature Date

/s/ Steven D. Arkwright  
Steven D. Arkwright  
Non-Public Arbitrator

05/27/03  
Signature Date

05/27/03  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 02-05029  
Award Page 4 of 4

Respondent, Greg G. Cutler, is liable for:

Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

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**ARBITRATION PANEL**

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Verne C. Hampton, II, Esq. - Public Arbitrator  
Steven D. Arkwright - Non-Public Arbitrator

Concurring Arbitrators:

  
Jeffrey M. Bauer, Esq.  
Public Arbitrator, Presiding Chair

May 23, 2003  
Signature Date

  
Verne C. Hampton, II, Esq.  
Public Arbitrator

Signature Date

  
Steven D. Arkwright  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 02-05623  
Award Page 4 of 4

Respondent, Greg G. Cutler, is liable for:	= \$ 1,125.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 0.00
Less payments	= \$ 1,125.00
Balance Due NASD Dispute Resolution	

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**ARBITRATION PANEL**

Jeffrey M. Bauer, Esq. - Public Arbitrator, Presiding Chair  
Vernie C. Hampton, II, Esq. - Public Arbitrator  
Steven D. Arkwright - Non-Public Arbitrator

Concurring Arbitrators:

Jeffrey M. Bauer, Esq.  
Public Arbitrator, Presiding Chair  
*Vernie C. Hampton II*  
Vernie C. Hampton, II, Esq.  
Public Arbitrator

Signature Date

*5/23/03*  
Signature Date

Steven D. Arkwright  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Respondent, Greg G. Cutler, is liable for:

Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

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Verne C. Hampton, II, Esq. - Public Arbitrator  
Steven D. Arkwright - Non-Public Arbitrator

**Concurring Arbitrators:**

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Verne C. Hampton, II, Esq.  
Public Arbitrator

  
Steven D. Arkwright  
Non-Public Arbitrator

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Signature Date

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Signature Date

5/27/03  
Signature Date

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Date of Service (For NASD office use only)