

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Charles Schwab & Co., Inc. (Claimant) vs. Anthony J. Andresakis and Gloria Andresakis,  
(Respondents)

Case Number: 02-05892

Hearing Site: New York, New York

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Nature of Dispute: Member vs. Customers

**REPRESENTATION OF PARTIES**

Claimant, Charles Schwab & Co., Inc., hereinafter referred to as "Claimant":  
Brandon K. Hemley, Esq., Charles Schwab & Co., Inc., San Francisco, CA.

Respondents, Anthony J. Andresakis and Gloria Andresakis, hereinafter collectively referred to  
as "Respondents" appeared *pro se*.

**CASE INFORMATION**

Statement of Claim filed on or about: October 1, 2002.

Reply to Counterclaim filed on or about: November 7, 2002.

Claimant signed the Uniform Submission Agreement: September 27, 2002.

Joint Statement of Answer and Counterclaim filed by Respondents on or about:  
October 18, 2002.

Anthony J. Andresakis signed the Uniform Submission Agreement: October 18, 2002.

Gloria Andresakis signed the Uniform Submission Agreement: October 18, 2002.

**CASE SUMMARY**

Claimant asserted that respondents failed to repay monies owed to cover a debit balance, forcing Claimant to liquidate the remaining securities in Respondents' account. The claim involves shares of Calpine, Delphi Automotive, Oracle, and other unspecified securities. In their Reply to the Counterclaim, Claimant denied the allegations of wrongdoing set forth in the Counterclaim and asserted various affirmative defenses.

Unless specifically admitted in their Answer and Counterclaim, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim. In their Counterclaim, Respondents asserted the following causes of action: mismanagement of their account; suitability; and unauthorized trading.

**RELIEF REQUESTED**

Claimant requested principal damages in the sum of \$18,612.61; interest on said principal balance at the rate of 7.25% per annum from and after May 1, 2002; NASD filing costs incurred herein in the sum of \$1,475.00, plus any additional arbitration costs required, according to proof; and for such other and further relief as the arbitration panel may deem just and proper. In the Reply to the Counterclaim, Claimant requested that the Panel dismiss the Counterclaim in its entirety; award Claimant its costs incurred in defending the Counterclaim; and award such other and further relief as may be just and proper.

In their Statement of Answer, Respondents requested that the Panel dismiss the Complaint in its entirety and offer any other relief that seems proper. In their Counterclaim, Respondents requested compensatory damages in the amount of \$40,000.00; punitive damages to deter any future actions to their clients; and any other relief deemed proper.

**OTHER ISSUES CONSIDERED AND DECIDED**

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**

The parties entered into an agreement, attached hereto as Exhibit A, to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief, subject to the payment terms set forth in Exhibit A and paragraph 4, below:

1. Respondents are jointly and severally liable and shall pay to Claimant compensatory damages in the amount of \$18,612.61.
2. Respondents are jointly and severally liable and shall pay to Claimant interest at the rate of 7.25% from May 1, 2002, until paid in full;
3. Respondents are jointly and severally liable and shall reimburse Claimant for arbitration costs in the amount of \$3,500.00 (with credit to be given for any refunds received by Claimant from NASD Dispute Resolution).
4. The parties agree, however, that this award will not take effect unless the Respondents fail to pay \$5,000 on or before July 1, 2004 and \$3,000 on or before November 1, 2004, as provided in the Settlement Agreement attached hereto as Exhibit A.

*ang [signature]* 2/16/04  
*Gloria Anderson*

5. Respondents' counterclaim is dismissed in its entirety as of the date this Award is executed, irrespective of the settlement terms outlined in paragraph 4, above.
6. Any and all relief not specifically addressed herein, including punitive damages is denied.

### **FEES**

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	= \$ 750.00
Counterclaim filing fee	= \$ 175.00

#### **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, Charles Schwab & Co., Inc. is a party.

Member Surcharge	= \$ 425.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,000.00

#### **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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference with a single arbitrator	= \$ 450.00
Pre-hearing conference: July 15, 2003 1 session	
Two (2) Pre-hearing conferences with the Panel @ \$600/session	= \$1,200.00
Pre-hearing conferences: May 23, 2003 1 session	
August 19, 2003 1 session	
Total Forum Fees	= \$1,650.00

1. The Panel assessed the total forum fees of \$1,650.00 jointly and severally against Respondents.

**Fee Summary**

1. Claimant is solely liable for:

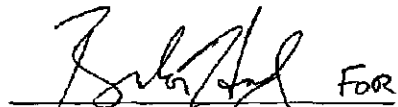
Initial Filing Fee	= \$ 750.00
<u>Member Fees</u>	= <u>\$2,175.00</u>
Total Fees	= \$2,925.00
<u>Less payments</u>	= <u>\$3,225.00</u>
Refund Due to Claimant	= \$ 300.00

2. Respondents are jointly and severally liable for:

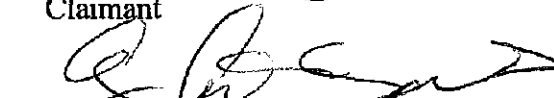

Counterclaim Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= <u>\$1,650.00</u>
Total Fees	= \$1,825.00
<u>Less payments</u>	= <u>\$ .00</u>
Balance Due NASD Dispute Resolution	= \$1,825.00

All balances are due and payable to NASD Dispute Resolution

**Parties' Signatures**

  
Charles Schwab & Co., Inc.  
Claimant

2/13/04  
Signature Date


  
  
Anthony J. Andresakis and Gloria Andresakis  
Respondents

FEB 16, 04  
Signature Date

**ARBITRATION PANEL**

Marguerite B. Filson, Esq.	-	Public Arbitrator, Presiding Chair
Jean C. Fox	-	Public Arbitrator
Michael P. Golden	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Marguerite B. Filson, Esq.  
Public Arbitrator, Presiding Chair

3/11/04  
Signature Date

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Jean C. Fox  
Public Arbitrator

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

\_\_\_\_\_  
Michael P. Golden  
Non-Public Arbitrator

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

March 22, 2004

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


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Jean C. Fox	-	Public Arbitrator
Michael P. Golden	-	Non-Public Arbitrator

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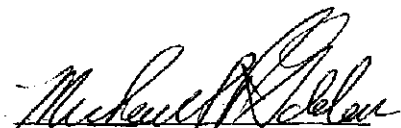
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Public Arbitrator, Presiding Chair

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Signature Date

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Jean C. Fox  
Public Arbitrator

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

  
\_\_\_\_\_  
Michael P. Golden  
Non-Public Arbitrator

3-5-04  
\_\_\_\_\_  
Signature Date

March 22, 2004

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



**SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

This Settlement Agreement is made by and between Charles Schwab & Co., Inc. ("Schwab"), on the one hand, and Anthony Andresakis and Gloria Andresakis ("Andresakis") on the other. For purposes of this Settlement Agreement, Schwab means Charles Schwab & Co., Inc., The Charles Schwab Corporation, e.Schwab, Charles R. Schwab, the individual, and any employee, agent, affiliate, subsidiary, officer or director, or representative of any of the above. For purposes of this Settlement Agreement, Andresakis means Anthony Andresakis, Gloria Andresakis, and their attorneys, agents, heirs, designees, representatives or assigns.

WHEREAS, Andresakis maintains Schwab account number 1164-2241 [This account and any other Schwab accounts maintained by Andresakis, whether individually, jointly, as trustee, custodian, limited or full power of attorney, or in any other capacity are hereinafter collectively referred to as "the Accounts"];

WHEREAS, a delinquent debit balance in the sum of \$18,612.61 (as of May 1, 2002) has been incurred in the Accounts, which is the subject of an arbitration claim filed by Schwab with the NASD Dispute Resolution, Inc., Case No. 02-05892, and whereas Andresakis has asserted a counterclaim in the same proceeding against Schwab;

WHEREAS, Schwab and Andresakis now seek to obtain a full and final settlement and resolution of all claims and controversies arising out of or in any way connected with the Accounts up through the date of this Agreement; and;

WHEREAS, neither the settlement of this dispute nor the payment of any consideration shall be taken or construed to be an admission or concession of liability or wrongdoing on the part of either party;

NOW, THEREFORE, for and in consideration of the mutual terms, covenants and conditions herein contained, IT IS AGREED as follows:

1. Andresakis and Schwab shall enter into a Stipulated Arbitration Award ("Award") in NASD-DR arbitration number 02-05892, entitled Charles Schwab & Co., Inc. v. Anthony J. Andresakis and Gloria Andresakis. Said award shall provide that the counterclaim of Anthony J. Andresakis and Gloria Andresakis is dismissed in its entirety, and further that Anthony J. Andresakis and Gloria Andresakis are jointly and severally liable to Charles Schwab & Co., Inc. as follows:

- a. \$18,612.61 in compensatory damages;
- b. Interest on said amount at the rate of 7.25% from May 1, 2002 until paid in full;
- c. Reimbursement of Schwab's costs of arbitration in the amount of \$3,500.00 (with credit to be given for any refunds received by Schwab from NASD-DR).

The award shall also provide that all forum fees are to be fully assessed to Andresakis.

2. Andresakis agrees that the applicable limitations period within which Schwab may confirm the Arbitration Award (i.e., convert the award to a judgment) shall be tolled and will not commence to run unless and until Andresakis fails to make any payment due as outlined in paragraph 3 herein. Schwab may confirm the Award (i.e., convert the award to a judgment) at Schwab's election, either in the City and County of San Francisco, California, or in any other court of competent jurisdiction, and nothing in this Agreement shall preclude Schwab from attempting to confirm the Award immediately.

3. However, Schwab agrees not to execute upon any judgment entered provided that Andresakis pays to Schwab the sum of \$8,000 (eight-thousand dollars) in good funds as follows: \$5,000 (five-thousand dollars) to be paid on or before July 1, 2004, and \$3,000 (three-thousand dollars) to be paid on or before November 1, 2004. All payments shall be remitted to:

Charles Schwab & Co., Inc.  
Office of Corporate Counsel  
Attn: Brandon Hemley  
101 Montgomery Street  
Mail Stop SF120KNY-04-349  
San Francisco, CA 94104

4. As long as Andresakis's payments are made as outlined in the preceding paragraph, Schwab shall refrain from taking steps to execute on any judgment that has been entered.

5. Upon Andresakis's final payment being cleared, Schwab shall remove any remaining debit balance, including principal and all accrued interest, from Andresakis's Account number 1164-2241, and Schwab shall release and forever discharge Andresakis from all claims, demands, damages, debts, liabilities, obligations, costs, accounts, liens, causes of action, covenants, judgments and executions of every kind and nature whatsoever, in law, equity or otherwise, whether now known or unknown, suspected or unsuspected, which it ever had, owned or held or now has, owns or holds, arising out of or in any way connected with the Accounts.

6. Upon execution of this Agreement, Andresakis agrees to release and forever discharge Schwab, its predecessors, successors, officers, directors, employees, agents, representatives, parents, affiliates, assigns and attorneys from any and all claims, demands, damages, debts, liabilities, obligations, costs, accounts, liens, causes of action, covenants, judgments, and executions of every kind and nature whatsoever, in law, equity or otherwise, whether now known or unknown, suspected or unsuspected, which he ever had, owned or held or now has, owns or holds, arising out of or in any way connected with the Accounts.

7. In the event that Schwab fails to receive any of Andresakis's payments as set forth above, Schwab shall notify Andresakis of the default, via letter sent to him at 2109

Broadway, Apt. 9144, New York, NY 10018-3710, and Andresakis shall have ten (10) days from the date of said default notice to cure the default. If Andresakis fails to cure the default as set forth above, he shall be considered to be in default of this Agreement. Andresakis shall be responsible for notifying Schwab in writing, through its Office of Corporate Counsel, of any change in his mailing address, or if he would prefer to receive notice by other means.

8. In the event of a default in this Agreement, the parties agree that Schwab shall be entitled to take further legal action against Andresakis or, if a judgment has already been entered, to execute upon said judgment against Andresakis, without further notice, for the entire balance then due pursuant to the Award or Judgment, less any payments made by Andresakis to date. In the event of a default in payments, Schwab shall also be entitled to recover interest, reasonable attorney's fees and costs incurred in seeking to collect the obligation due.

9. Andresakis agrees that neither he nor anyone else acting on his behalf or in concert with him will disclose any information relating to the events giving rise to this dispute, or the settlement thereof, to any person or entity, and will hold all such information in the strictest confidentiality, except if compelled to disclose it by a court of law or a securities regulatory agency.

10. Andresakis warrants and represents that he has not assigned, transferred or conveyed, or purported to have assigned, transferred or conveyed, to any person or entity any claim, demand, debt, liability, account, obligation or cause of action relating in any way to the Accounts.

11. Andresakis warrants that he has read and fully understands the terms of this Agreement, and that he has had the opportunity to consult with an attorney with respect to this Agreement.

12. Each of the parties hereto acknowledges that this Agreement shall be governed by Section 1542 of the California Civil Code which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his (or her) favor at the time of executing the release, which if known by him (or her) must have materially affected his settlement with the debtor.

Each party expressly waives any rights he or it may have under this Section. The parties further acknowledge that in the future, claims or facts in addition to or different from those which are now known or believed to exist may hereafter be discovered with respect to this subject matter, but it is the intention of each of the parties hereto to fully and forever settle and release all of the claims arising out of or connected with the Accounts up to and including the date of this Agreement.

13. This Agreement is the total agreement of the parties and supersedes any prior negotiations or agreements between the parties, whether written or oral.

14. This Agreement shall be interpreted, enforced and governed by and under the laws of the State of California. The language in this Agreement shall be construed as a whole according to its fair meaning. This Agreement shall be deemed to have been drafted equally by the parties and, in the event of ambiguity, shall not be strictly construed against one party or the other.

15. This Agreement is entered into in the City and County of San Francisco, California, and the parties agree that any legal proceeding to enforce the terms of this Agreement may be initiated and maintained, at Schwab's election, in the City and County of San Francisco, California, or in any other court of competent jurisdiction.

16. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. Facsimile signatures shall be as binding and valid as originals.

CHARLES SCHWAB & CO., INC.

Dated: September 17, 2003

By:   
BRANDON K. HEMLEY  
Its: Corporate Counsel

Dated: September 22, 2003

By:   
ANTHONY J. ANDRESAKIS

Dated: September 22, 2003

By:   
GLORIA ANDRESAKIS