

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

Koehler Lodging LLC, William Johns,
Carol Johns, Ray Thomas, Leonard Anderson,
Diane Anderson, Charles Anderson,
Nancy Anderson, Stephen Petty and Robin Petty

v.

02-06215
Minneapolis, Minnesota

Respondent

Charles Schwab & Company, Inc.

Nature of Dispute: Customers v. Member

REPRESENTATION OF PARTIES

Koehler Lodging LLC, William Johns, Carol Johns, Ray Thomas, Leonard Anderson, Diane Anderson, Charles Anderson, Nancy Anderson, Stephen Petty and Robin Petty, hereinafter referred to as ("**Claimants**") were represented by Steven E. Rau, Esq., of Flynn, Gaskins & Bennett, L.L.P., Minneapolis, Minnesota.

Charles Schwab & Company, Inc. ("**Respondent**") was represented by Mark T. Dooks, Esq., of Bird, Marella, Boxer & Wolpert, Los Angeles, California.

CASE INFORMATION

The Statement of Claim was filed on or about October 16, 2002. Submission Agreements of Claimant Koehler Lodging LLC, William Johns and Carol Johns were signed on or about October 10, 2003. Submission Agreement of Claimant Ray Thomas was signed on or about October 11, 2003. Submission Agreements of Claimants Leonard Anderson, Diane Anderson, Charles Anderson, and Nancy Anderson were signed on or about October 14, 2003. Submission Agreements of Claimants Stephen Petty and Robin Petty were signed on or about October 24, 2003.

Claimants filed an Amended Statement of Claim on or about October 31, 2002.

Statement of Answer was filed by Respondent Charles Schwab & Company, Inc. on or about January 15, 2003. Submission Agreement of Respondent Charles Schwab & Company, Inc. was signed on or about January 14, 2003.

CASE SUMMARY

Claimants asserted causes of action including the following: breach of fiduciary duty, respondeat superior, negligence, and violation of Article III of the NASD Rules of Fair Practice. Claimants alleged that they were clients of one or both of two tax-free, qualified intermediaries under I.R.C. § 1031, called Like-Kind Exchange Services, Inc., and Nation-Wide Exchange Services, Inc., (collectively "Exchanges"). Claimants alleged that Respondent recommended or allowed the Exchanges' use of margin trading on speculative stocks in their accounts and those purchases were neither suitable nor appropriate. Claimants further alleged that Respondent had actual or constructive knowledge of the Exchanges' fiduciary relationship with Claimants and the Exchanges' fiduciary relationship extended to Charles Schwab and should be held accountable.

Respondent denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimants were customers of a corporation that had one or more securities trading account at Schwab; Claimants never had an account with Respondent, never were customers of Respondent and never had an agreement, written or oral with Respondent; Claimants did not take steps to place limits on trading authority in any of the corporate accounts and Claimants did not advise Respondent that they claimed to have any interest in any of the funds at issue.

RELIEF REQUESTED

Claimants requested an award in the amount of \$1,920,756.52 in compensatory damages. In addition, Claimants also requested interest, punitive damages, attorney's fees, costs and such other relief that the Panel deemed just and equitable.

Respondent requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about March 25, 2003, NASD Dispute Resolution received notice that Claimants Charles Anderson and Nancy Anderson withdrew all claims against Respondent Charles Schwab & Company, Inc. with prejudice.

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 originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims, each and all, are hereby denied and dismissed in their entirety;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice and;
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee	= \$ 500
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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 & Company, Inc.

Member surcharge	= \$ 2,800
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 5,000

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator x \$ 450 = \$ 900

Pre-hearing conferences: 07/18/2003 1 session
08/26/2003 1 session

One (1) Pre-hearing session with Panel x \$ 1,200 = \$ 1,200

Pre-hearing conference: 05/16/2003 1 session

Eleven (11) Hearing sessions with Panel x \$ 1,200 = \$ 13,200

Hearing Dates: 11/10/2003 2 sessions
11/11/2003 2 sessions
11/12/2003 2 sessions
11/13/2003 2 sessions
11/14/2003 1 session
11/17/2003 2 sessions

Total Forum Fees = \$ 15,300

The Arbitration Panel has assessed \$ 7,650 of the forum fees, jointly and severally, to Koehler Lodging LLC, William Johns, Carol Johns, Ray Thomas, Leonard Anderson, Diane Anderson, Charles Anderson, Nancy Anderson, Stephen Petty and Robin Petty.

The Arbitration Panel has assessed \$ 7,650 of the forum fees to Charles Schwab & Company, Inc.

Fee Summary

Claimants, Koehler Lodging LLC, William Johns, Carol Johns, Ray Thomas, Leonard Anderson, Diane Anderson, Charles Anderson, Nancy Anderson, Stephen Petty and Robin Petty, are jointly and severally liable for:

Initial Filing Fee	= \$ 500
<u>Forum Fees</u>	= \$ 7,650
Total Fees	= \$ 8,150
<u>Less payments</u>	= \$ 1,800
Balance Due NASD Dispute Resolution	= \$ 6,350

Respondent, Charles Schwab & Company, Inc. is liable for:

Member Fees	= \$ 8,550
Forum Fees	= \$ 7,650
Total Fees	= \$ 16,200
Less payments	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 7,650

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATION PANEL

Emily F. Seesel, Esq. - Public Arbitrator, Presiding Chair
Frederick Ramos, Esq. - Public Arbitrator
Jacque E. Foust - Non-Public Arbitrator

Concurring Arbitrators:

Emily F. Seesel, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Frederick Ramos, Esq.
Public Arbitrator

Signature Date

Jacque E. Foust
Non-Public Arbitrator

Signature Date

12/15/03
Date of Service (NASD use only)

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Member Fees	= \$ 8,550
Forum Fees	= \$ 7,650
Total Fees	= \$ 16,200
Less payments	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 7,650

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATION PANEL

Emily F. Seesel, Esq. - Public Arbitrator, Presiding Chair
Frederick Ramos, Esq. - Public Arbitrator
Jacque E. Foust - Non-Public Arbitrator

Concurring Arbitrators:

Emily F. Seesel
Emily F. Seesel, Esq.
Public Arbitrator, Presiding Chair

December 10, 2003
Signature Date

Frederick Ramos, Esq.
Frederick Ramos, Esq.
Public Arbitrator

Signature Date

Jacque E. Foust
Jacque E. Foust
Non-Public Arbitrator

Signature Date

12/15/03
Date of Service (NASD use only)

Member Fees	= \$ 8,550
Forum Fees	= \$ 7,650
Total Fees	= \$ 16,200
Less payments	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 7,650

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

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Frederick Ramos, Esq. - Public Arbitrator
Jacque E. Foust - Non-Public Arbitrator

Concurring Arbitrators:

Emily F. Seesel, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Frederick Ramos, Esq.
Public Arbitrator

02/12/03
Signature Date

Jacque E. Foust
Non-Public Arbitrator

Signature Date

12/15/03
Date of Service (NASD use only)

Member Fees	= \$ 8,590
Forum Fees	= \$ 7,690
Total Fees	= \$ 16,280
Less payments	= \$ 8,590
Balance Due NASD Dispute Resolution	= \$ 7,690

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATION PANEL

Emily F. Seesel, Esq. - Public Arbitrator, Presiding Chair
Frederick Ramos, Esq. - Public Arbitrator
Jacque E. Foust - Non-Public Arbitrator

Concurring Arbitrators:

Emily F. Seesel, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Frederick Ramos, Esq.
Public Arbitrator

Signature Date



Jacque E. Foust
Non-Public Arbitrator



Signature Date

12/15/03

Date of Service (NASD use only)