

**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

CASE: 02-07331

Lionheart LLC, claimant vs. Charles Schwab & Company, Inc., respondent.

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**ATTORNEYS:**

For Claimant appeared Managing Partner, Richard Stevenson, Mesa, AZ.

For Respondent appeared in-house counsel, Sean B. Meehan, Esq., San Francisco, CA.

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DATE FILED: December 4, 2002

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CASE SUMMARY: Claimant alleged that respondent placed their account in "legal status" for an unconscionably long time and prevented trading in a period of falling prices of IMGC stock. Claimant maintained that because of respondent's actions, the account suffered a loss.

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ARBITRATOR'S REPORT: See attached Exhibit A.

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**Claim Data**

Claim: \$16,000.00  
Filing Fees: \$.00

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**Award Data**

Award: \$2,666.40  
Filing Fees: \$425.00

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AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent is liable and shall pay to the claimant \$2,666.40. 2) All other relief requests are denied. 3) The \$425.00 filing fee previously deposited with NASD Dispute Resolution by the claimant, shall be retained by NASD Dispute Resolution. 4) Respondent is liable and shall pay claimant \$425.00 as reimbursement of the filing fee.

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OTHER FEES: Pursuant to Rule 10333 of the Code, respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

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Award 02-07331

Joel A. Gildar, Esq.

Sole Public Arbitrator

**AFFIRMATION**

I, Joel A. Gildar, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.

  
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Joel A. Gildar, Esq.

3-17-03  
Signature Date

March 25, 2003  
Date of Service (For NASD-DR office use only)

NASD - OFFICE OF DISPUTE RESOLUTION

NOTICE OF ARBITRATOR'S DECISION

In the Matter of:

CLAIMANT:                   LIONHEART, L.L.C., et. al.  
RESPONDENT:               CHARLES SCHWAB & CO., INC.  
NASD D.R. ARB. NO:       02-07331

The Arbitrator has read and considered the written materials and tape recording that were submitted by the parties.

The Arbitrator finds that the Respondent acknowledges that its representative was negligent in failing to request an additional completed form when Claimant delivered his stock certificates. Claimant maintains that such forms were not requested in the past for similar transactions. Claimant's expectation that he would be able to trade his stock using Velocity software was reasonable notwithstanding the non-negotiated boiler-plate language in the Account Agreement.

Although Claimant alleges that he attempted to sell his 4,040 shares "some days later", the only evidence of an actual attempt to trade the stock was on June 21st. Claimant maintains that he found out that the Velocity account had been "blocked" on June 24th. The tape recording submitted by Respondent confirms that the conversation between Claimant and Respondent's representative occurred on June 24th. Such tape recording does reveal that the representative stated to Claimant that Claimant could sell his stock directly through an

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account representative. Thus, contrary to Claimant's assertion on page 4 of his Statement of Claim, he was on notice that he could sell his stock directly through an account representative on June 24th. The closing price for the subject stock was \$19.39 on June 24th. The closing price for the subject stock on June 21st was \$20.05. Giving credence to the Claimant's assertion that he would have sold the stock on June 21st had he been able to through the Velocity software, the Arbitrator finds that the closing price of \$20.05 is a reasonable sales proceeds Claimant could have expected.

The difference between the closing price on June 21st and June 24th, the date the Claimant was on notice that he could sell his shares through an account representative is \$.66 per share. The per share differential multiplied times 4,040 shares is \$2,666.40.

The Arbitrator awards Claimant this sum.

DATED this 7th day of MARCH, 2003.

  
JOEL A. GILDAR, Arbitrator

ORIGINAL of the foregoing faxed & mailed  
this 10th day of March, 2003, to:

NASD Dispute Resolution  
Jennifer Foster, Legal Assistant  
165 Broadway, 27th Floor  
New York, NY 10006-1400  
Fax No: (212) 858-4429

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