

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

David Perlick, Laura Perlick and
Michael Perlick

and

Case Number: 03-02272
Hearing Site: Southfield, Michigan

Name of Respondent

Charles Schwab & Co., Inc.

and

Name of Third Party Claimant

Charles Schwab & Co.

and

Names of Third Party Respondents

Howard Weurth, Marcella Weurth, and
Linda Wilson

NATURE OF DISPUTE

Customers v. Member and Member v. Non-Members

REPRESENTATION OF PARTIES

David Perlick, Laura Perlick and Michael Perlick ("Claimants") was represented by Mark E. Mueller, Esq., Driggers, Schultz & Herbst, Troy, Michigan.

Charles Schwab & Co., Inc. ("Schwab") was represented by Gregory M. Scanlon, Esq., Charles A. Schwab & Co., San Francisco, California.

Howard Weurth, Marcella Weurth, and Linda Wilson ("Third Party Respondents") were represented by Thaddeus M. Stawick, Esq., West Bloomfield, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about March 28, 2003. The Submission Agreement of Claimant David Perlick, Laura Perlick and Michael Perlick was signed on or about February 28, 2003, March 11, 2003, and March 11, 2003, respectively.

Statement of Answer was filed by Respondent Charles Schwab & Co., Inc. on or about June 5, 2003. The Submission Agreement of Respondent Charles Schwab & Co., Inc. was signed on or about April 21, 2003 by Gregory M. Scanlon. Schwab filed a First Amended Statement of Answer and Third Party claim filed on or about August 13, 2003.

Statement of Answer was filed jointly by Respondent Howard Weurth, Marcella Weurth, and Linda Wilson on or about September 30, 2003. The Submission Agreement of Respondent Howard Weurth, Marcella Weurth, and Linda Wilson was signed on or about October 14, 2003.

CASE SUMMARY

Claimants asserted the following cause of action: violation of Article 3 of the Uniform Commercial Code, MCL§440.3307. Claimants asserted that the Claimants are the residuary beneficiaries of the Anthony Perlick Trust ("Trust"); the Trustee of the Trust is Howard Weurth ("Trustee"); and that the Trustee established a Schwab one Trust Brokerage account registered to "Howard Weurth TTEE U/W Anthony L. Perlick." The causes of action relate to Claimant's allegation that the Trustee wrote a check on the Trust checking account and deposited it to his personal Schwab brokerage account rather than to the Trust Schwab Brokerage account.

Unless specifically admitted in their Answer, Respondent Schwab denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: ratification, estoppel, laches, and failure to mitigate damages. Schwab, its Third Party Claim, alleged that if any money was misappropriated from the Trust, that it was misappropriated by the account holders of the account that received the check in question. Schwab asserted claims for contribution, equitable indemnity, unjust enrichment and breach of contract in its Third Party Claim.

Unless specifically admitted in their Answer, Third Party Respondents denied the allegations made in the Third Party Claim and asserted Marcella Weurth and Linda Wilson have not liability and that the claims against Howard Weurth are the subject of a Motion for Summary Disposition in the Probate Court for the County of Oakland, State of Michigan.

RELIEF REQUESTED

Claimants requested an award in the amount of \$55,000.00, attorney fees, interest, costs, and any other relief the Panel deemed appropriate.

Respondent/Third Party Claimant requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees, and any such other relief as provided by law. Schwab requested indemnification and contribution in their Third Party Claim.

Third Party Respondents requested that the Third Party Claims be dismissed in their entirety and that they be awarded their costs, including attorney's fees and such other and further relief as the Panel deems just and equitable.

OTHER ISSUES CONSIDERED & DECIDED

The Circuit Court for Oakland County, State of Michigan entered an Order on November 6, 2002, granting Schwab's Motion to Compel Arbitration (of Claimant's claims against Schwab).

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 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.) Any and all claims submitted by Claimants David Perlick, Laura Perlick and Michael Perlick are denied and dismissed with prejudice;
- 2.) Any and all Third Party Claims submitted by Charles Schwab & Co., are denied and dismissed with prejudice;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) 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	= \$ 225.00
Third Party 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(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Charles Schwab & Co., Inc.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

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 \$750.00	= \$ 750.00
Pre-hearing conference: Date 1 session	
Two (2) Hearing sessions x \$750.00	= \$1,500.00
Hearing Dates: Date 2 sessions	
Total Forum Fees	= \$2,250.00

The Arbitration Panel has assessed \$750.00 of the forum fees jointly and severally to David Perlick, Laura Perlick and Michael Perlick.

The Arbitration Panel has assessed \$750.00 of the forum fees to Charles Schwab & Co., Inc.

The Arbitration Panel has assessed \$750.00 of the forum fees jointly and severally to Charles Schwab & Co., Inc. Howard Weurth, Marcella Weurth, and Linda Wilson.

Fee Summary

Claimant, David Perlick, Laura Perlick and Michael Perlick, are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 975.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Third Party Claim Filing Fee	= \$1,000.00
Member Fees	= \$3,550.00
Forum Fees	= \$ 750.00
Total Fees	= \$5,300.00
Less payments	= \$3,600.00
Balance Due NASD Dispute Resolution	= \$1,700.00

Third Party Respondents, Howard Weurth, Marcella Weurth, and Linda Wilson, are jointly and severally liable for:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 750.00

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

ARBITRATION PANEL

Jeffry M. Bauer, Esq - Public Arbitrator, Presiding Chair
Lawrence Jay Ellenbogen, Esq. - Public Arbitrator
Kenneth Rochlen - Non-Public Arbitrator

Concurring Arbitrators:

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

01/16/2004
Signature Date

/s/ Kenneth Rochlen
Kenneth Rochlen
Non-Public Arbitrator

01/20/2004
Signature Date

Dissenting Arbitrator:

/s/ Lawrence Jay Ellenbogen
Lawrence Jay Ellenbogen, Esq.
Public Arbitrator

01/20/2004
Signature Date

01/20/2004
Date of Service (For NASD office use only)

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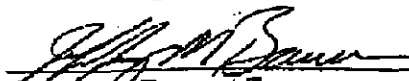
Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
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Public Arbitrator, Presiding Chair



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Non-Public Arbitrator

Signature Date

1/20/04

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Public Arbitrator

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