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

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In the Matter of the Arbitration Between:

Name of the Claimant

Janice Shindel-Styles, Individually and  
as Joint Trustee with Lee Lysne of the  
Jan Shindel Trust Account

Case Number: 03-03689

Names of the Respondents

Charles Schwab & Co., Inc.  
Raymond James Financial Services, Inc.  
SunAmerica Securities, Inc.

Hearing Site: Tampa, FL

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Janice Shindel-Styles, Individually and as Joint Trustee with Lee Lysne of the Jan Shindel Trust Account, hereinafter referred to as "Claimant": Mike Piscitelli, Esq., Vezina, Lawrence & Piscitelli, P.A., Tallahassee, FL.

For Respondent Charles Schwab & Co., Inc. ("Schwab"): Curt Mueller, Vice President & Senior Corporate Counsel, San Francisco, CA.

For Respondent Raymond James Financial Services, Inc. ("RJF"): Bruce W. Barnes, Esq., Bruce W. Barnes, P.A., Clearwater, FL.

For Respondent SunAmerica Securities, Inc. ("Sun"): Elaine M. Rice, Esq., Fowler White Boggs Banker P.A., Tampa, FL.

**CASE INFORMATION**

Statement of Claim filed on or about: May 20, 2003.

Claimant signed the Uniform Submission Agreement: July 1, 2003.

Statement of Answer filed by Respondent Schwab on or about: August 25, 2003.

Respondent Schwab signed the Uniform Submission Agreement: August 25, 2003.

Statement of Answer and Motion to Dismiss ("RJF's Motion to Dismiss") filed by Respondent RJF on or about: November 14, 2003.

Amended Statement of Answer filed by Respondent RJF on or about: February 23, 2004.

Respondent RJF signed the Uniform Submission Agreement: July 16, 2003.

Statement of Answer and Motion to Dismiss ("Sun's Motion to Dismiss") filed by Respondent Sun on or about: September 16, 2003.

Respondent Sun signed the Uniform Submission Agreement: September 30, 2003.

Claimant's Response to RJF's Motion to Dismiss filed on or about: December 4, 2003.

RJF's Reply to Claimant's Response to RJF's Motion to Dismiss filed on or about: December 16,

2003.

Respondent RJF's Motion for Sanctions filed on or about: November 14, 2003.

Claimant's Response to Respondent RJF's Motion for Sanctions filed on or about: December 16, 2003.

### **CASE SUMMARY**

Claimant asserted the following causes of action: violation of §517.12(1 and 4), §517.301, and §517.312 of the Florida Securities and Investor Protection Act, negligence, negligent hiring, and negligent supervision by Respondent Schwab; violation of §517.301 and §517.312 of the Florida Securities and Investor Protection Act, failure to properly advise as to required IRA withdrawals, and negligent supervision by Respondent RJF; and, negligence per se by Respondent Sun. The causes of action relate to the actions of a person who was allegedly an "associated person" of Respondent Schwab who allegedly invested the funds in Claimant's account in various, unspecified, unsuitable securities including "high technology" stocks; allegedly engaged in high risk securities strategies (such as day trading and free riding); and, employed margin borrowing to effectuate allegedly speculative and indefensible activities.

Unless specifically admitted in their Answers, Respondents Schwab, RJF, and Sun denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested an unspecified amount of compensatory damages, emotional distress damages, costs, interest, punitive damages, rescission, attorneys' fees, and such other relief as the undersigned arbitrators (the "Panel") deemed proper.

Respondent Schwab requested dismissal of the Statement of Claim, costs, attorneys' fees, and such other relief as provided by law.

Respondent RJF requested dismissal of the Statement of Claim, costs, and attorneys' fees.

Respondent Sun requested dismissal of the Statement of Claim, costs, attorneys' fees, reimbursement of fees paid to NASD, and such other relief as is just and appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about January 16, 2004, the Panel entered an order which denied RJF's Motion to Dismiss and Sun's Motion to Dismiss and confirmed Claimant's voluntary dismissal of Claims Six, Seven, and Eight of the Statement of Claim against Respondent Sun.

During the evidentiary hearing, Respondent Schwab made a Motion to Dismiss after Claimant presented its case. The Panel denied the Motion.

During the evidentiary hearing, Respondent Schwab made a Motion to Disqualify Claimant's expert witness, David Chase. The Panel denied the Motion.

During the evidentiary hearing, Claimant made a Motion to Disqualify Respondent Schwab's expert witness, Marianne Smythe. The Panel denied the Motion.

On the third day of the evidentiary hearing, Claimant and Respondents RJF and Sun entered into a confidential settlement wherein Claimant dismissed all claims against said Respondents, with prejudice, and said Respondents dismissed their claims for attorneys' fees and costs, with prejudice. The matter continued between Claimant and Respondent Schwab.

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

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's Statement of Claim is denied.

Claimant's requests for relief pursuant to Florida Statutes Chapter 517 are denied.

Claimant's and Respondent Schwab's requests for attorneys' fees are denied.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

### FEEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 250.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondents Schwab, RJF, and Sun are member firms and parties.

Respondent Schwab:

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00
Total Member Fees	= \$4,450.00

Respondent RJF:

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00

<u>Hearing process fee</u>	= \$2,200.00
<u>Total Member Fees</u>	= \$4,450.00

**Respondent Sun:**

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	= \$2,200.00
<u>Total Member Fees</u>	= \$4,450.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: May 10, 2004	1 session
July 28, 2004	1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,000.00	= \$2,000.00
Pre-hearing conferences: January 16, 2004	1 session
February 20, 2004	1 session

Seven (7) Hearing sessions @ \$1,000.00	= \$7,000.00
Hearing Dates: August 3, 2004	2 sessions
August 4, 2004	2 sessions
August 5, 2004	2 sessions
August 6, 2004	1 session

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<b>Total Forum Fees</b>	<b>= \$9,900.00</b>
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The Panel has assessed \$2,475.00 of the forum fees to Claimant.

The Panel has assessed \$2,475.00 of the forum fees to Respondent Schwab.

The Panel has assessed \$2,475.00 of the forum fees to Respondent RJF.

The Panel has assessed \$2,475.00 of the forum fees to Respondent Sun.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 2,475.00
Total Fees	= \$ 2,725.00
<u>Less payments</u>	<u>= \$ 1,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,475.00

Respondent Schwab is solely liable for:

Member Fees	= \$ 4,450.00
Forum Fees	= \$ 2,475.00
Total Fees	= \$ 6,925.00
<u>Less payments</u>	<u>= \$ 4,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,475.00

Respondent RJF is solely liable for:

Member Fees	= \$ 4,450.00
Forum Fees	= \$ 2,475.00
Total Fees	= \$ 6,925.00
<u>Less payments</u>	<u>= \$ 4,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,475.00

Respondent Sun is solely liable for:

Member Fees	= \$ 4,450.00
Forum Fees	= \$ 2,475.00
Total Fees	= \$ 6,925.00
<u>Less payments</u>	<u>= \$ 4,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,475.00

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

**ARBITRATION PANEL**

Harvey Alan Blicksilver, Esq.	-	Public Arbitrator, Presiding Chairperson
Philip C. Bennett, CPA	-	Public Arbitrator
George E. Bouse	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Harvey Alan Blicksilver, Esq.  
Public Arbitrator, Presiding Chairperson

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

/s/  
Philip C. Bennett, CPA  
Public Arbitrator

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

/s/  
George E. Bouse  
Non-Public Arbitrator

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

August 20, 2004

Date of Service (For NASD Dispute Resolution office use only)

FROM : H.BLICKSILVER

FAX NO. :

Aug. 19 2004 11:02AM P2

AUG 18 2004 9:05PM

NASD BOCA RATON

NO. 882 P. 7

NASD Dispute Resolution

Arbitration No. 03-03689

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Concurring Arbitrators' Signatures



Harvey Alan Blicksilver, Esq.  
Public Arbitrator, Presiding Chairperson

8-19-04

Signature Date

\_\_\_\_\_  
Philip C. Bennett, CPA  
Public Arbitrator

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

\_\_\_\_\_  
George E. Bouae  
Non-Public Arbitrator

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

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Date of Service (For NASD Dispute Resolution office use only)

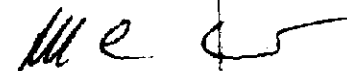
AUG. 18. 2004 11:53AM NASD BOCA RATON  
NASD Dispute Resolution  
Arbitration No. 03-03689  
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NO. 874 P. 7

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Harvey Alan Blacksilver, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Philip C. Bennett, CPA  
Public Arbitrator

  
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Signature Date

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George E. Bouse  
Non-Public Arbitrator

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

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Date of Service (For NASD Dispute Resolution office use only)



FROM .

FAX NO. :

Aug. 19 2004 09:43AM P2

AUG. 18. 2004 3:58PM NASD BOCA RATON

NO. 886 P. 7/7

NASD Dispute Resolution

Arbitration No. 03-03689

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Concurring Arbitrators' Signatures

Harvey Alan Bliksilver, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Philip C. Bennett, CPA  
Public Arbitrator

Signature Date

George E. Bousé  
George E. Bousé  
Non-Public Arbitrator

8-18-04  
Signature Date

Date of Service (For NASD Dispute Resolution office use only)