

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Carl F. Schrader, Carl F. Schrader, Keogh and Carl F. Schrader, Trustee of the Schrader Irrevocable Trust, Claimants v. Charles Schwab & Co., Inc. and Joshua E. Hurd, Respondents

Case Number: 04-03563

Hearing Site: San Francisco, California

Nature of the Dispute: Customers vs. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

Carl F. Schrader
Menlo Park, California

For Respondents:

Brandon K. Hemley, Esq.
Charles Schwab & Co., Inc.
San Francisco, California

CASE INFORMATION

Statement of Claim filed: May 14, 2004

Claimant Carl F. Schrader's Uniform Submission Agreement signed: May 14, 2004

Claimants Carl F. Schrader, Keogh and Carl F. Schrader, Trustee of the Schrader Irrevocable Trust's Uniform Submission Agreement signed: May 21, 2004

Statement of Answer of Respondents Charles Schwab & Co., Inc. ("Schwab") and Joshua E. Hurd; and Respondent Joshua E. Hurd's Motion to Dismiss filed: July 22, 2004

Respondent Schwab's Uniform Submission Agreement signed: July 22, 2004

CASE SUMMARY

Claimant Carl F. Schrader alleged that his accounts suffered losses because of Respondents' failure to follow his investment instructions and failure to invest Claimants' funds in a timely manner. Mr. Schrader alleged that the above-referenced dispute involves investments in various securities, including but not limited to, investments in Nuveen Municipal Managers, Bank of America, Schwab S&P 500 Fund and Turner International.

Respondents denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimants requested damages in the amount of \$60,276.02, punitive damages in the amount of \$39,000.00, interest and costs.

Respondents requested that the Panel:

1. Deny Claimants' claim in its entirety or, in the alternative, render a reasonable award that is grounded in fact and based on an appropriate measure of damages;
2. Award Schwab its costs in defending this claim, taking into account the reasonableness of Schwab's prior attempts to resolve this matter;
3. Dismiss Respondent Joshua E. Hurd with prejudice; and
4. Award any other relief permitted by law.

OTHER ISSUES CONSIDERED AND DECIDED

On August 13, 2004, Claimants signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100 the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On or about August 13, 2004, Claimants dismissed their claims against Respondent Joshua E. Hurd.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Schwab is liable to and shall pay Claimants the sum of \$25,000.00.
- 2) Respondent Schwab is liable to and shall pay Claimants the sum of \$225.00 as reimbursement for Claimants' filing fee.

- 3) Claimants' claims for punitive damages are denied.
- 4) Except as mentioned above, each party shall bear its own costs, including attorney's fees.
- 5) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$225.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, Schwab is a party and the following fees are assessed:

Member Surcharge	= \$1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$750.00/session	=	\$750.00
Pre-hearing conference: October 27, 2004 1 session		
(2) Hearing sessions @ \$750.00/session	=	\$1,500.00
Hearings: March 7, 2005 2 sessions		
<u>Total Forum Fees</u>	<u>=</u>	<u>\$2,250.00</u>

The Panel assessed the \$2,250.00 in forum fees to Respondent Schwab.

Fee Summary

1. Claimants are charged with the following fees and costs:

Initial Filing Fee	= \$ 225.00
Less Payments	= \$(975.00)
Refund Due Claimants	= \$(750.00)

2. Respondent Schwab is charged with the following fees and costs:

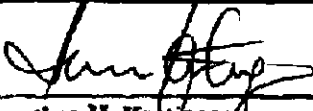
Member Fees	= \$ 3,550.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 5,800.00
Less Payments	= \$(3,550.00)
Balance Due NASD-DR	= \$ 2,250.00

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

ARBITRATION PANEL

Jonathan H. Krotinger	-	Public Arbitrator, Presiding Chair
Robert E. Thompson, Esq.	-	Public Arbitrator
E. Duane Stephens	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Jonathan H. Krotinger
Chair, Public Arbitrator

3/10/05
Signature Date

Robert E. Thompson, Esq.
Public Arbitrator

Signature Date

E. Duane Stephens
Non-Public Arbitrator

Signature Date

3/10/05
Date of Service

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