
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Jose C. Martin, M.D., Trustee,
Jose C. Martin, M.D. P.A. Pension Plan
U/A DTD 12/27/93

Case Number: 04-04109

Name of the Respondent

Charles Schwab & Company, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Jose C. Martin, M.D., Trustee, Jose C. Martin, M.D. P.A. Pension Plan U/A DTD 12/27/93), hereinafter referred to as "Claimant": Agustin Perez-Cervera, Esq., The Law Firm of Ausustin Perez-Cereva, P.A., Coral Gables, Florida.

For Charles Schwab & Company, Inc. ("Schwab"), hereinafter referred to as "Respondent": Sean B. Meehan, Esq., Charles Schwab & Company, Inc., San Francisco, California and Neil S. Baritz, Esq., Baritz & Colman, L.L. P., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 10, 2004.

Claimant signed the Uniform Submission Agreement: June 1, 2004.

Statement of Answer filed by Respondent on or about: August 4, 2004.

Respondent signed the Uniform Submission Agreement: August 4, 2004.

Reply to Statement of Answer filed by Claimant on or about: September 1, 2004.

Claimant's Amendment to Statement of Claim filed on or about: December 16, 2004.

Claimant's Motion for Leave to file Amended Statement of Claim filed on or about: December 17, 2004.

Respondent's Amendment to Statement of Answer filed on or about: January 24, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: negligence, omission of facts and violation of the Internal Revenue Code, including but not limited to Sections 401(a)(13) and/or Section 4975. The causes of action relate to the purchase on margin in Claimant's account of the following securities: NSW, EXDS, VRT, CTXS, NTAP, AMCC, DMIC, LSI, COVD, RFMD, TXN, FLEX, JDSU, SBUX, BEAS, SANM, GX, Corning GLW, TSM, INJ, QQ, Janus Fund, WYETH, Citigroup, CTXS, GLW, DMJC, MCDATA, QCOM, TERN, VZ, WMB, WCOEQ, MCC, C, NTAP, WCGRQ and MCWQ.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$1,023,837.88, interest charged on the margin loan balance after July 31, 2002, pre-judgment interest from August 1, 2002, costs, reasonable attorneys' fees, expenses which include accountant and expert witness fees and such other and further relief as is deemed just and proper.

Respondent requested that the Panel dismiss Claimant's claims in their entirety, that Claimant take nothing from this action and that the Panel award Respondent its costs and such additional relief as justice requires.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 28, 2005, the Panel issued an Order which granted Claimant's Motion to Amend the Statement of Claim.

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

Claimant's claims are denied in their entirety.

Respondent shall pay to Claimant the sum of \$500.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, are denied.

FEES

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	= \$ 500.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent Schwab is a member firm and a party.

Member surcharge	= \$2,800.00
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Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

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 incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 @ \$450.00/session = \$ 900.00

Pre-hearing conferences: December 14, 2004 1 session
 December 20, 2004 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,200.00/session = \$2,400.00

Pre-hearing conferences: October 25, 2004 1 session
 January 28, 2005 1 session

Five (5) Hearing sessions @ \$1,200.00/session = \$6,000.00

Hearing Dates: February 22, 2005 3 sessions
 February 23, 2005 2 sessions

Total Forum Fees = \$9,300.00

The Panel assessed the total forum fees of \$9,300.00 to Respondent.

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 in this matter.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
<u>Total Fees</u>	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 9,300.00
<u>Total Fees</u>	= \$17,850.00
<u>Less payments</u>	= \$ 8,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 9,300.00

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

ARBITRATION PANEL

Monroe Mitchell	-	Public Arbitrator, Presiding Chairperson
Lawrence M. Green	-	Public Arbitrator
John F. Kavanewsky	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Monroe Mitchell
Public Arbitrator, Presiding Chairperson

February 25, 2005
Signature Date

/s/
Lawrence M. Green
Public Arbitrator

February 25, 2005
Signature Date

/s/
John F. Kavanewsky
Non-Public Arbitrator

February 25, 2005
Signature Date

February 25, 2005
Date of Service (For NASD Dispute Resolution office use only)

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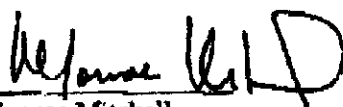
<u>Member Fees</u>	= \$ 3,550.00
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Concurring Arbitrators' Signatures


Monroe Mitchell
Public Arbitrator, Presiding Chairperson

2/25/05
Signature Date

Lawrence M. Green
Public Arbitrator

Signature Date

John F. Kavanewsky
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

Monroe Mitchell
Public Arbitrator, Presiding Chairperson

Signature Date



Lawrence M. Green
Public Arbitrator

02-25-05

Signature Date

John F. Kavanewsky
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 04-04109
Award Page 4 of 4

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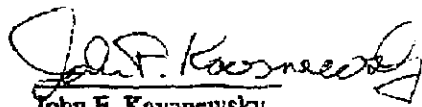
Concurring Arbitrators' Signatures

Monroe Mitchell
Public Arbitrator, Presiding Chairperson

Signature Date

Lawrence M. Green
Public Arbitrator

Signature Date


John F. Kavanewsky
Non-Public Arbitrator


Feb 25, 2005
Signature Date

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