

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

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In the Matter of the Arbitration Between:

Christopher Richied, Claimant v. Charles Schwab & Co., Inc., Respondent

Case Number: 05-02539

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customer v. Member

**REPRESENTATION OF PARTIES**

For Claimant:

Dennis R. Villavicencio, Esq.  
Catherine L. Bailey, Esq.  
Akins & Villavicencio, LLP  
Carlsbad, California

For Respondent:

Katherine Nathan, Esq.  
Charles Schwab & Co., Inc.  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: May 12, 2005

Claimant's Uniform Submission Agreement signed: May 12, 2005

Statement of Answer filed: July 13, 2005

Respondent's Uniform Submission Agreement signed: August 11, 2005

**CASE SUMMARY**

Claimant alleged breach of contract, breach of fiduciary duty, fraud, deceit and omission of material fact, fraudulent concealment, negligent misrepresentation, conversion, violation of federal and state laws, violation of NASD and NYSE rules, and failure to supervise. Claimant's allegations involved the alleged freezing of Claimant's assets by Respondent.

Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim.

**RELIEF REQUESTED**

Claimant requested \$39,428.00 in compensatory damages, unspecified punitive damages, pre-judgment interest at the legal rate from May 15, 2003, and costs, including attorney's fees.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety and costs.

**OTHER ISSUES CONSIDERED AND DECIDED**

On May 12, 2005, Claimant and Claimant's counsel 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 Claimant 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.

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, evidence presented at the hearing, and the post-hearing submissions, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Charles Schwab & Co., Inc. is liable to and shall pay Claimant Christopher Richied the sum of \$39,428.00 in compensatory damages.
- 2) Respondent Charles Schwab & Co., Inc. is liable to and shall pay Claimant Christopher Richied interest in the amount of 5% per annum, simple interest, on \$39,428.00 from May 15, 2003, until the date payment of this Award is made in full.
- 3) Respondent Charles Schwab & Co., Inc. is liable to and shall pay Claimant Christopher Richied the sum of \$19,502.05 in attorney's fees, pursuant to the California Civil Code and case law cited in Claimant's post-hearing brief.
- 4) Except as set forth in paragraph 3, the parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 175.00
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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, the member firm Charles Schwab & Co., Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$1,000.00
<b>Total Member Fees</b>	<b>= \$2,625.00</b>

#### **Forum Fees and Assessments**

The Arbitrator assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference, that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Hearing sessions @ \$450.00/session	= \$1,350.00
Hearings:	
April 4, 2006	2 sessions
April 5, 2006	1 session
<b>Total Forum Fees</b>	<b>= \$1,350.00</b>

The Arbitrator assessed the entire balance of the forum fees, in the amount of \$1,350.00, to Respondent Charles Schwab & Co., Inc.

**Fee Summary**

1. Claimant Christopher Richied is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
<u>Less payments</u>	= \$ (625.00)
<b>Refund Due from NASD Dispute Resolution</b>	<b>= \$ (450.00)</b>

2. Respondent Charles Schwab & Co., Inc. is charged with the following fees and costs:

Member Fees	= \$ 2,625.00
Forum Fees	= \$ 1,350.00
Total Fees	= \$ 3,975.00
<u>Less payments</u>	= \$(2,625.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,350.00</b>

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