

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Ben Wood, Jr.,
Claimant,

Case Number: 05-03274

v.

Hearing Site: St. Louis, Missouri

Daedalus Capital, LLC, Steven M. Coleman and
Charles Schwab & Co.,
Respondents.

Nature of the Dispute: Customer vs. Non-Member, Associated Person and Member

REPRESENTATION OF PARTIES

Ben Wood, Jr. ("Wood"), hereinafter referred to as "Claimant": Steven W. Koslovsky, Esq. of Maryland Heights, Missouri.

Daedalus Capital, LLC ("Daedalus") and Steven M. Coleman ("Coleman"), hereinafter collectively referred to as "Respondents": Jeffrey H. Kass, Esq. of Armstrong Teasdale, LLP, located in St. Louis, Missouri.

Charles Schwab & Co. ("Schwab"), hereinafter referred to as "Respondent": Curt H. Mueller, Esq. of Charles Schwab & Co., located in San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: June 28, 2005

Wood signed the Uniform Submission Agreement: June 15, 2005

Statement of Answer filed by Respondents Daedalus and Coleman on: September 12, 2005

Respondents Daedalus and Coleman each signed a Uniform Submission Agreement: December 22, 2005

Statement of Answer and Motion to Dismiss filed by Respondent Schwab on: August 11, 2005

Schwab signed the Uniform Submission Agreement: August 11, 2005

Wood's Response in Opposition to Schwab's Motion to Dismiss filed: December 20, 2005

Schwab's Reply Memorandum in Support of its Motion to Dismiss filed: December 21, 2005

Schwab's Renewed Motion to Dismiss filed: February 21, 2006

Wood's Response to Schwab's Renewed Motion to Dismiss filed: March 3, 2006

CASE SUMMARY

Wood asserted the following causes of action: breach of fiduciary duty, omissions, misrepresentations, failure to supervise, negligence, unsuitability and violation of Missouri Securities Act. The causes of action relate to unspecified securities, which Wood asserted were unsuitable to his investment needs and objectives.

Unless specifically admitted in their Answer, Respondents Daedalus and Coleman denied the allegations made in the Statement of Claim and asserted various affirmative defenses: failure to state a claim; waiver, estoppel and ratification; statute of limitations; loss causation; "Bespeaks Caution" doctrine; failure to mitigate; claimant assumed the risk; no basis for attorneys' fees or costs; and the complaint is unjustified and without any basis.

Unless specifically admitted in its Answer, Respondent Schwab denied the allegations made in the Statement of Claim and asserted the following affirmative defenses: comparative negligence; assumption of risk; ratification; estoppel; and failure to mitigate.

RELIEF REQUESTED

Claimant requested \$87,000.00 in compensatory damages; punitive damages; all charges to the account; lost earnings; pre-judgment interest of 8%; costs and attorney's fees; and for further relief to which he may be entitled.

Respondents Daedalus and Coleman requested that Wood's Statement of Claim be dismissed in its entirety; for costs and expenses; attorney's fees and expert witness fees; and expungement of Respondent Coleman's CRD record.

Respondent Schwab requested that the Panel grant its motion to dismiss and the Statement of Claim against Schwab be dismissed in its entirety; costs; and for other relief as provided by law.

OTHER ISSUES CONSIDERED AND DECIDED

A pre-hearing conference was held on January 25, 2006 on Respondent Schwab's Motion to Dismiss. On January 25, 2006, the Panel entered the following Order:

This matter, having come on for telephonic hearing on this 25th day of January, 2006, the Panel hereby orders after consideration of oral arguments and written pleadings that Respondent Charles Schwab and Co.'s Motion to Dismiss is hereby denied, based on the current state of the record, without prejudice to renewal of said motion prior to hearing after further facts are developed in discovery.

A pre-hearing conference was held on March 15, 2006 on Schwab's Renewed Motion to Dismiss. After reviewing the pleadings submitted by the parties and having heard oral arguments, the Panel sustained Schwab's motion and dismissed Charles Schwab & Co. from this arbitration proceeding.

At the hearing of this matter, during the close of Claimant's case, Claimant made an oral request to increase damages in the amount of \$149,197.77, which includes a net loss of \$104,332.91; 9%

interest from October 2002 to March 2006 in the amount of \$32,864.86; and \$12,000.00 in attorney's fees. Respondents made no objection to Claimant's request.

AWARD

After considering the pleadings, 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:

1. Respondents, Daedalus Capital, LLC and Stephen M. Coleman, are jointly and severally liable for and shall pay Claimant, Ben Wood, Jr. the sum of \$29,245.00 as compensatory damages.
2. Respondents, Daedalus Capital, LLC and Stephen M. Coleman, are jointly and severally liable for and shall pay Claimant, Ben Wood, Jr., the sum of \$10,000.00 as attorney's fees. In deciding to award attorney's fees, the Panel considered the pleadings filed by counsel, as well as the arguments presented on behalf of the parties, and determined that authority existed for an award of attorney's fees to the Claimant.
3. Respondent Daedalus and Coleman's request for expungement to Coleman's registration records maintained by the NASD Central Registration Depository ("CRD") is denied.
4. Except as otherwise specified herein, parties shall bear their own costs, including attorneys' fees.
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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
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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, Charles Schwab & Co. was a party to this proceeding and was assessed the following fees:

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

Forum Fees and Assessments

The Panel has 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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on discovery-related motions on the papers
with one arbitrator @ \$200.00 = \$ 200.00
Claimant submitted one (1) discovery-related motion

Three (3) Pre-hearing sessions with Panel @ \$750.00 = \$2,250.00
Pre-hearing conferences: November 18, 2005 1 session
January 25, 2006 1 session
March 15, 2006 1 session

Three (3) Hearing sessions @ \$750.00 = \$2,250.00
Hearing Dates: March 20, 2006 2 sessions
March 21, 2006 1 session

Total Forum Fees = \$4,700.00

1. The Panel has assessed forum fees in the amount of \$1,566.66 solely to Claimant Ben Wood, Jr.
2. The Panel has assessed forum fees in the amount of \$1,566.66 solely to Respondent Daedalus Capital, LLC.
3. The Panel has assessed forum fees in the amount of \$1,566.66 solely to Respondent Stephen M. Coleman.

Fee Summary

1. Claimant, Ben Wood, Jr., is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,566.66
Total Fees	= \$1,791.66
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 816.66
2. Respondent, Charles Schwab & Co. is solely liable for:

Member Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondent, Daedalus Capital LLC, is solely responsible for:

Forum fees	= \$1,566.66
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,566.66
4. Respondent, Stephen M. Coleman, is solely responsible for:

Forum fees	= \$1,566.66
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,566.66

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

ARBITRATION PANEL

John R. Loss, Esq.	-	Public Arbitrator, Presiding Chairperson
Alan A. Sachs, Esq.	-	Public Arbitrator
Bryan A. McDonald	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ John R. Loss, Esq.

John R. Loss, Esq.

Public Arbitrator, Presiding Chairperson

3/22/06

Signature Date

/s/ Alan A. Sachs, Esq.

Alan A. Sachs, Esq.

Public Arbitrator

3/22/06

Signature Date

/s/ Bryan A. McDonald

Bryan A. McDonald

Non-Public Arbitrator

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Date of Service (For NASD Dispute Resolution use only)

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Arbitration No. 05-03274
Award Page 5 of 5

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