
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Shelley C. Rountree, Individually and in her
Capacity as Assignee of the Estate of Robert
Barnes Rountree, Sr.

Case Number: 06-00069

Names of the Respondents

Robert Barnes Rountree, Jr.
Sarah Rountree Long
William D. Rountree
Charles Schwab & Co., Inc.

Hearing Site: Atlanta, Georgia

Cross Claim Respondents

Robert Barnes Rountree, Jr.
Sarah Rountree Long
William D. Rountree

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

REPRESENTATION OF PARTIES

For Shelley C. Rountree, Individually and in her Capacity as Assignee of the Estate of Robert Barnes Rountree, Sr., hereinafter referred to as "Claimant": Wade H. Watson, III, Esq., Caldwell & Watson, LLP, Atlanta, Georgia.

For Respondents Robert Barnes Rountree, Jr. ("RBR"), Sarah Rountree Long ("SRL"), and William D. Rountree ("WDR"): Wendell K. Willard, Esq., Atlanta, Georgia.

For Respondent Charles Schwab & Co., Inc. ("Schwab"): Sean B. Meehan, Esq., In-house Counsel, Charles Schwab & Co., Inc., San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: January 5, 2006.

Claimant signed the Uniform Submission Agreement: October 10, 2006.

Amended Arbitration Demand filed on or about: March 23, 2006.

Statement of Answer and Cross Claim filed by Respondent Schwab on or about: February 24, 2006.

Respondent Schwab signed the Uniform Submission Agreement: February 24, 2006.

Statement of Answer to Amended Arbitration Demand filed by Respondents RBR, SRL and WDR on or about: May 1, 2006.

Respondents RBR, SRL and WDR signed the Uniform Submission Agreements: April 10, 2006.

Motion for Determination of Disputed Issue or, in the Alternative, to Exclude Evidence filed by Claimant on or about: October 2, 2006.

Response to Motion for Determination of Disputed Issue or to Exclude Evidence filed by Respondent Schwab on or about: October 16, 2006.

Motion in Limine and Supporting Brief Regarding Standard to be Applied to Determine Qualifications of and Admissibility of Evidence Proffered by Expert Witnesses filed by Respondents RBR, SRL and WDR on or about: October 19, 2006.

Response to Motion in Limine filed by Claimant on or about: October 30, 2006.

CASE SUMMARY

Claimant asserted the causes of action of conversion of IRA, money had and received, and constructive trust against all Respondents. Claimant asserted the causes of action of breach of fiduciary duty and fraud solely against Respondent RBR. Claimant asserted the cause of action of wrongful transfer of IRA solely against Respondent Schwab. The causes of action relate to the distribution to Respondents RBR, SRL and WDR by Respondent Schwab of the monies contained in Claimant's deceased husband's IRA account.

Unless specifically admitted in their Answer, Respondents RBR, SRL and WDR denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Schwab denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses. Additionally, Respondent Schwab asserted a Cross Claim for indemnity against Respondents RBR, SRL and WDR.

RELIEF REQUESTED

Claimant requested an unspecified amount of compensatory damages, pre-judgment interest as provided by law or as awarded by the Panel, assessment of all costs to Respondent Schwab, and such other and further relief as deemed just and appropriate by the Panel.

Respondents RBR, SRL and WDR requested that all claims be denied in their entirety, and that the Panel award them their costs and such other and further relief deemed just and proper by the Panel.

Respondent Schwab requested that the Panel dismiss Claimant's claims against Respondent Schwab in their entirety, and that the Panel award Respondent Schwab its costs and such other relief as provided by law. In its Cross Claim, Respondent Schwab requested indemnification from Respondents RBR, SRL and WDR.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant initially filed the claims at issue in Fulton County Superior Court, Atlanta Judicial Circuit ("Superior Court"). Shortly thereafter, Respondent Schwab moved to stay the Superior Court action and to compel arbitration. On December 5, 2005, the Superior Court issued an Order mandating arbitration by all of the parties in this matter.

On or about October 27, 2006, the Panel issued an Order denying, as moot, Claimant's Motion for Determination of Disputed Issue or, in the Alternative, to Exclude Evidence.

During the final hearings for this matter, the Panel denied Respondents RBR, SRL and WDR's Motion in Limine and Supporting Brief Regarding Standard to be Applied to Determine Qualifications of and Admissibility of Evidence Proffered by Expert Witnesses. In addition, Respondent Schwab made a Motion to Dismiss. The Panel denied Respondent Schwab's motion.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

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:

Respondents are found not liable and all Claimant's claims are denied in their entirety.

Cross Claim of Respondent Schwab is dismissed as moot by the Panel.

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:

Claimant's Initial claim filing fee	= \$250.00
Cross claim filing fee	= \$500.00

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 party to this dispute and was a member of NASD at the time the following fees were assessed:

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed 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 cancellation fees were assessed 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 during this proceeding.

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:

One (1) Pre-hearing session with a single Arbitrator @ 450.00/session	= \$ 450.00
October 5, 2006 1 session	
One (1) Pre-hearing session with the Panel @ \$1,000.00/session	= \$1,000.00
Pre-hearing conference: May 26, 2006 1 session	
Eight (8) Hearing sessions with the Panel @ \$1,000.00/session	= \$8,000.00
Hearing Dates: November 6, 2006 2 sessions	
November 7, 2006 2 sessions	
November 8, 2006 2 sessions	
November 9, 2006 2 sessions	
Total Forum Fees	= \$9,450.00

The Panel has assessed \$4,725.00 of the forum fees to Claimant.

The Panel has assessed \$4,725.00 of the forum fees to Respondent Schwab.

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 = \$ 4,725.00

Total Fees	= \$ 4,975.00
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Less payments _____ **= \$ 1,250.00**

Balance Due NASD Dispute Resolution	= \$ 3,725.00
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Respondent Schwab is solely liable for:

Member Fees = \$ 4,450.00

Cross claim Filing Fee = \$ 500.00

Forum Fees	= \$ 4,725.00
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Total Fees	= \$ 9,675.00
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Less payments = \$ 5,150.00

Balance Due NASD Dispute Resolution	= \$ 4,525.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Jay D. Lukowski, Esq.

—

Public Arbitrator, Presiding Chairperson

Karla Y. Vogel, Esq.

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Public Arbitrator

T. Scott Watkins

3

Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Jay D. Lukowski, Esq.

Public Arbitrator, Presiding Chairperson

11/10/06

Signature Date

/s/

Karla Y. Vogel, Esq.

Public Arbitrator

11/10/06

Signature Date

/s/

T. Scott Watkins

Non-Public Arbitrator

11/13/06

Signature Date

11/13/06

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

NASD Dispute Resolution
Arbitration No. 06-00069
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Fee Summary

Claimant is solely liable for:

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Total Fees	= \$ 4,975.00
Less payments	= \$ 1,250.00
Balance Due NASD Dispute Resolution	= \$ 3,725.00

Respondent Schwab is solely liable for:

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Karla Y. Vogel, Esq.

T. Scott Watkins

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Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

11/10/06

Signature Date

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Signature Date

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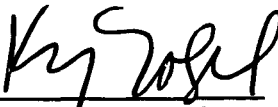
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Karla Y. Vogel, Esq.	-	Public Arbitrator
T. Scott Watkins	-	Non-Public Arbitrator

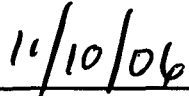
Concurring Arbitrators' Signatures

Jay D. Lukowski, Esq.
Public Arbitrator, Presiding Chairperson



Karla Y. Vogel, Esq.
Public Arbitrator

Signature Date



Signature Date

T. Scott Watkins
Non-Public Arbitrator

Signature Date

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Forum Fees	= \$ 4,725.00
<u>Total Fees</u>	<u>= \$ 4,975.00</u>
<u>Less payments</u>	<u>= \$ 1,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,725.00

Respondent Schwab is solely liable for:

Member Fees	= \$ 4,450.00
Cross claim Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,725.00
<u>Total Fees</u>	<u>= \$ 9,675.00</u>
<u>Less payments</u>	<u>= \$ 5,150.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,525.00

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Jay D. Lukowski, Esq.	-	Public Arbitrator, Presiding Chairperson
Karla Y. Vogel, Esq.	-	Public Arbitrator
T. Scott Watkins	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jay D. Lukowski, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Karla Y. Vogel, Esq.
Public Arbitrator

Signature Date


T. Scott Watkins
Non-Public Arbitrator

11/13/06
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