

**PACIFIC EXCHANGE, INC.  
115 Sansome Street  
San Francisco, CA 94104**

**In The Matter of the Arbitration Between**

**[REDACTED],**

**Claimant,**

**vs.**

**Charles Schwab & Co.,**

**Respondent**

**PCX Case No. 06-S001**

**DECISION**

The undersigned Arbitrator, having read and considered the Claim submitted by Claimant and the Answer of Respondent, together with documentary submissions filed by the Parties, hereby renders the following Decision pursuant to Rule 12 of the Pacific Exchange:

**REPRESENTATION OF PARTIES**

**Of Claimant:**

**[REDACTED]**

**Of Respondent:**

**Gregory M. Scanlon, Esq.**

**HISTORY OF CASE**

**Statement of Claim filed on or about January 26, 2006**

**Statement of Answer filed on or about March 7, 2006**

**Letters from Claimant to PCX filed between February 4, 2006 and March 14, 2006**

### SUMMARY OF CASE

Claimant held a position of 500 shares of EUROTUNNEL PLC UTS ADR F, SPONSORED ADR, 1 ADR REP 2 ORD UNITS ("ENTLY") in an IRA custodial brokerage account at Morgan Stanley. The shares were transferred to a self directed IRA custodial account at Respondent in January, 2003. The ENTLY shares were convertible to ordinary shares after the termination of the ADR Program in December, 2003, until December 31, 2004. In February, 2004, Claimant transferred the IRA account held at Respondent to Buchanan Capital. However, Claimant thereafter continued to receive monthly statements from Respondent indicating the ETLNY shares were not transferred and remained in the account at Respondent.

At some point during early 2004, Claimant undertook additional efforts with Respondent and Buchanan Capital to have the ENTLY shares transferred as he initially requested. These efforts proved unsuccessful, the conversion period expired, and efforts by the Parties to settle the matter failed to produce a final agreement, whereupon the Claimant filed the Claim which is the subject matter of this Arbitration.

### ISSUES PRESENTED

Was Respondent under a duty to notify Claimant of the termination features of the ADR Program for the ENTLY shares held in the self directed IRA account at Respondent and that Claimant must take certain actions within a specified time period to convert ENTLY ADR shares into Ordinary shares?

### RELIEF REQUESTED

Claimant requests that Respondent purchase and assign to Claimant 1000 Ordinary shares of Eurotunnel stock and pay to Claimant \$200 in costs incurred in Claimant's attempts to settle the dispute with Respondent.

Respondent requests that Claimant be compensated, but any compensation ordered take into account Claimant's refusal of settlement offers made by Respondent.

FINDINGS

1. The ENTLY shares were purchased by Claimant prior to Claimant establishing the account at Respondent to which the shares were transferred at Claimant's direction.
2. The record is devoid of evidence as to whether Respondent acted as an advisor to Claimant, with concomitant fiduciary duties, or transactional decisions were made solely by Claimant without advice from Respondent.
3. Based on the foregoing and by correctly describing the Eurotunnel shares on Claimant's monthly statements as "1 ADR REP 2 ORD UNITS" and on the 12/03 monthly statement as "PLC UTS ADXX, ADR PROGRAM TERMINATED, EFF. 12/31/03", Respondent satisfied its responsibility to Claimant concerning the relevant convertible and termination attributes of the ENTLY shares.

DECISION

After considering the arguments and evidence of the Parties based upon the findings set forth above, equities and the request of Respondent that Claimant be compensated in some way, the undersigned Arbitrator enters the following Award in favor of Claimant:

1. \$450.00 in monetary damages
2. \$200.00 in attorney's fees

OTHER DETERMINATIONS

1. Parties to bear their own costs of Arbitration
2. Forum Fees, if any, assessed 100% against Claimant

Dated: 5/2/06

  
Mark Topper, Arbitrator