

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between/Among

Vincent J. Coppola

and

Helga Coppola

Claimants

vs.

Charles Schwab & Co., Inc., Dennis Aveli,
Michael Duffy, Robert William Fivis and
Lawrence John Stupski

Respondents

Case #88-00535
Award

CASE SUMMARY

Claimants Vincent and Helga Coppola (hereinafter the "Claimants"), alleged that Respondents, Charles Schwab & Co., Inc., Dennis Aveli, Michael Duffy, Robert William Fivis and Lawrence John Stupski (hereinafter the "Respondents") fraudulently and negligently mishandled Claimants' account causing them to sustain severe losses on October 19 and 20, 1987. Claimants alleged that each of the Respondents aided and abetted each of the other in the actions and inactions that harmed the Claimants. Claimants alleged that Respondents grossly mishandled the liquidation of Claimants accounts in that Respondents failed to properly and promptly liquidate the Claimants positions. Claimants alleged that Respondents breached both written and oral contracts and the implied terms of both. Claimants alleged that Respondents were fiduciaries to Claimants, and their acts and inactions constituted a breach of their fiduciary duties.

Respondents maintained that they did not engage in any misconduct or that they in any way mishandled the liquidation of Claimants' accounts, and they maintained that the Coppolas' loss was brought about solely by Vincent Coppola's conscious and considered trading decisions, by unprecedented movements in the market and by Vincent Coppola's failure to make a good faith effort to sell off his securities in order to meet his maintenance calls. Respondents denied that they acted fraudulently or negligently or in any way caused Claimants' alleged damages. Respondents denied that they breached any contracts with Claimants and further maintained that they did not breach any fiduciary duty owed to Claimants.

Respondent Schwab asserted a counterclaim and alleged that Claimants owe Respondents Schwab for the debit balance that remains in Claimants' account.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$4,000,000.00 (this figure included the losses sustained in Claimants accounts on October 19 and 20, 1987 and the elimination of the resulting claimed debit balance and claim interest thereon). Claimants also requested rescission of certain transactions, punitive damages in the amount of \$5,000,000.00 and attorneys fees and interest on all sums from October 20, 1987.

Respondents requested that the Claimants' claim be dismissed in its entirety and Respondent Schwab requested an award on its counterclaim against Vincent J. and Helga Coppola, jointly and severally, in the amount of \$635,318.07 with pre-award interest thereon, at the legal rate of interest, from October 31, 1987, plus reasonable costs and disbursements, including attorneys fees. Respondent Schwab requested an adjudication that Schwab is entitled to retain and apply the equity in the individual account in reduction of the Claimants' indebtedness to Schwab in the joint account. Respondent Schwab requested a determination that the Coppolas have made fraudulent conveyances in an amount to be established at the hearing and that those conveyances should be set aside.

AWARD

February 27, 28, March 1, May 23 and June 5, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants, on February 5, 1988 and by Respondent Charles Schwab & Co., Inc. on July 6, 1988, by Respondent Dennis Avelli on July 5, 1988, by Respondent Michael Duffy on July 6, 1988 by Respondent Robert Williams Fivis on June 20, 1988 and by Respondent Lawrence J. Stupski on July 6, 1988. The hearing was held in New York City and consisted of nine (9) sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. That the Claimants' claim is denied in all respects.
2. That the Claimants' claim for punitive damages is denied in all respects.
3. That all relief requested by Respondent Charles Schwab & Co., Inc. is denied in all respects
4. The parties shall each bear their respective costs, including attorneys fees.

5. Pursuant to Section 43 of the Code of Arbitration Procedure, the Claimant and the Respondents are equally assessed forum fees. Claimants are assessed forum fees in the amount of \$4,500.00; however, Claimants are entitled to apply their filing fee of \$1,000.00 to this forum fee so that the amount due from the Claimants as a forum fee is \$3,500.00. Respondents are jointly and severally assessed forum fees in the amount of \$4,500.00 payable to the National Association of Securities Dealers, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

CONCURRING ARBITRATORS

/s/ _____
Martin Jay Siegel

/s/ _____
Edmond E. Chapus

/s/ _____
Henry H. Balter

/s/ _____
Jack Friedman

/s/ _____
Lewis Silver

DATED: June 29, 1990