

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

- Charles E. Coles

Claimant

vs.

Charles Schwab & Co., Inc.

Respondent

} Case #88-00980
} Award
}

CASE SUMMARY

Claimant Charles E. Coles alleges that he ordered Respondent Charles Schwab & Co., Inc., to sell 6,000 Stone Container short and later to cover the position by buying 6,000 shares. Claimant further alleges that (1) Respondent's quotes were incorrect and late and (2) the coverage, when it was obtained, cost him \$71,195.16.

Claimant alleges he would not have covered if he had received prompt and correct information.

Claimant alleges a long position on October 19, 1987, was entered as covering a short position when there was no short position. Claimant alleges that Respondent sold the 6,000 shares when they were instructed to sell 3,000, resulting in another loss of \$98,948.51.

Additionally, Claimant alleges his trades were based on late and false information through negligence and resulted in a loss of at least \$170,000.00.

Respondent Schwab enters a general denial and states that its obligation to Claimant is only to execute his orders. Respondent disagrees, inter alia, with the number of shares ordered to be bought on October 19. Respondent alleges that all orders were executed as expeditiously as possible under prevailing market conditions.

RELIEF REQUESTED

Claimant asks for damages of at least \$170,000.00, with interest, punitive damages to be assessed by the arbitrators, reasonable attorney's fees and the costs of disbursements of this action.

Respondent requests that Claimant's claim be denied and dismissed and that Respondent be awarded all costs and attorney's fees incurred in connection with this proceeding.

AWARD

On June 15, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on March 17, 1988, and by Respondent on June 29, 1988. 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. Claimant's requested relief is denied. Each party shall bear their respective costs including attorneys' fees. Respondent's Motion to Waive the Adjournment Fee is denied.
2. Forum fees are assessed against Respondent pursuant to Section 43 of the Code of Arbitration Procedure. The Respondent shall pay the NASD the sum of \$750.00 as a forum fee. The National Association of Securities Dealers, Inc. shall refund the \$750.00 filing fee previously deposited by the Claimant.

ARBITRATORS CONCURRING

Patrick J. Halter

Stephen E. Crable

W. David Powell