

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
CHARLES SCHWAB & CO. INC.,)
) Claimant.)
) Case #88-02222
vs.) Award
)
RICHARD R. GARSH and)
JENNIFER R. GARSH,)
) Respondents.)
)

Heard before the members of the Arbitration Panel:

Arieh Leo Douer
Craig Edward Stein, Esq.
Curtis Carlson, Esq.

On May 24, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on June 28, 1988; and by Respondent Richard R. Garsh on May 24, 1989; and, not executed by Jennifer R. Garsh as required by Section 12(a) of the Code of Arbitration Procedure ("Code"), Respondent Jennifer Garsh being a public customer having duly executed an agreement to arbitrate. Having considered the pleadings, the testimony, and the evidence presented at the hearing, and Jennifer Garsh neither appearing nor seeking any adjournment thereof, notwithstanding her knowledge of this arbitration, the Arbitration Panel has determined in full and final resolution of the issues submitted for determination as follows:

1. Jurisdiction exists by virtue of the arbitration agreement signed by Jennifer Garsh and pursuant to Sections 12 and 25 of the Code.
2. The NASD, Inc. has made every attempt to serve Jennifer Garsh with both the Statement of Claim and Notice of this hearing as demonstrated by the following evidence:
 - a. July 18, 1988, Service of Claim by certified mail at 9651 Sunset Strip, Sunrise, FL 33322. (While no receipt was returned to the NASD, neither was this mail ever returned as unclaimed.)
 - b. September 13, 1988, Service of "Overdue Notice" of Answer by certified mail at above address. (Again, no receipt was returned to the NASD, nor was this mail ever returned as unclaimed.)
 - c. January 18, 1989, Service of Confirmation of the May 24, 1989 hearing date by certified mail at above address, returned marked "unclaimed" by the Postal Service.
 - d. February 8, 1989, Service of Confirmation of the May 24, 1989 hearing date by regular mail, never returned by Postal Service.

- e. April 18, 1989, Service of Notification of Arbitration Panel and date and time of May 24, 1989 hearing jointly on Richard and Jennifer Garsh at above address by certified mail, regular mail and Federal Express delivery. The certified mail was returned as unclaimed by the Postal Service.
- f. Mr. Richard R. Garsh appeared at the hearing pursuant to the above series of notices.
- 3. Respondents, Richard R. Garsh and Jennifer R. Garsh, shall be and hereby are liable, jointly and severally, and shall pay to the Claimant the amount of Twenty-Three Thousand Nine Hundred Fifty and 85/100 (\$23,950.85) Dollars, plus interest in the amount of Three Thousand Three Hundred Seventy-Eight and 15/100 (\$3,378.15) Dollars at the rate of 9% per annum from November 1, 1987 through May 24, 1989, for a total of Twenty-Seven Thousand Three Hundred Twenty-Nine and 95/100 (\$27,329.95) Dollars.
- 4. Claimant's request for attorneys' fees shall be and hereby is denied in all respects.
- 5. Pursuant to Section 43 of the Code of Arbitration Procedure, Respondents shall be and hereby are assessed forum fees, jointly and severally, in the amount of Eight Hundred and 00/100 (\$800.00) Dollars, (\$400.00 x two sessions), of which Four Hundred and 00/100 (\$400.00) Dollars shall be paid directly to the Claimant, and of which Four Hundred and 00/100 (\$400.00) Dollars shall be paid directly to the NASD, Inc.
- 6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

Dated: June 9, 1989