

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Anwar Shah, M.D.

Claimant

and

Charles S. Schwab & Co., Inc.

Respondent

A W A R D
88-02452

SUMMARY

In a claim filed on or about August 2, 1988, the Claimant alleged that the Respondent wrongfully confirmed an exchange of shares in Vanguard funds which caused losses in both the sale of the Gold and Precious Metals sector and the purchase of the Technology sector. The Claimant further alleged that the acts of Respondent were reckless and fraudulent and justify the award of punitive damages.

The Respondent claimed that it had no duty or obligation to advise the Claimant in connection with his transactions. Respondent alleged that it followed the Claimant's instructions to attempt to transfer his investment in the Gold and Precious Metals portfolio to the Technology portfolio. Respondent claimed that the order was placed with Vanguard and that it did not learn until the following day that Vanguard was exercising its right to reject the trade. Respondent further claimed that they took steps to inform the Claimant of the rejection on the same day it occurred.

RELIEF REQUESTED

The Claimant sought recovery of \$16,591.42 lost on sale of the Gold and Precious Metals, \$82,060.65 lost on purchase of Technology and the \$28,869.07 redemption fee charged to the Claimant when he removed his money from the Money Market Fund. Additionally, the Claimant seeks punitive damages of \$200,000 plus filing fees, costs and expenses.

Respondent denies liability for the losses, lost profits or redemption fee and denies that Claimant is entitled to recover punitive damages.

AWARD

On June 8, 1989 in St. Louis, Missouri in a hearing lasting two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant on July 20, 1988 and by Richard Dangerfield on behalf of the Respondent on August 17, 1988.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims of the Claimant are hereby dismissed in all respects;

2. Each party shall bear its own costs and expenses including attorneys' fees; and

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees the \$750 previously deposited with the NASD by the Claimant.

By the Panel

Dated: July 26, 1989 /S/ Hon. Albert G. Webber III
Presiding Chairman

Dated: July 26, 1989 /S/ Robert M. Livingstone, Esq.

Dated: July 24, 1989 /S/ Peter Joseph O'Neal