

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Charles Schwab, Inc.

Claimant(s)

and

Norman J. Yentzen, Jr.

Respondent(s)

AWARD

Case No. 88-02496

CASE SUMMARY

Charles Schwab & Company ("Claimant") alleged that Norman Yentzen ("Respondent") owes the Claimant certain amounts for a debit balance which resulted when Claimant was forced to liquidate the Respondent's account to cover a deficit in the Respondent's account. The liquidation, Claimant alleged, was authorized under the agreement between the parties.

Respondent alleged that the Claimant is estopped and barred from recovery for any alleged deficit on the grounds that any such margin calls were directly created as a result of the Claimant's inaccessibility on October 15 and 16, 1987. Respondent alleged that he tried to contact the Claimant numerous times by phone, however, the Claimant's lines were always busy. Respondent further alleged that if the Claimant would have been accessible, he would have covered the account for cost of \$8,000. Instead the deficit after actual liquidation of the Claimant's account was excessive.

Claimant denied the claims asserted by Respondent in his counterclaim.

RELIEF REQUESTED

Claimant requested damages of \$113,441.50, interest, attorney's fees, costs and dismissal of the counterclaim asserted by the Respondent. Respondent requested dismissal of the Claimant's claims and damages of \$57,000.00, attorney's fees and costs.

AWARD

On August 5, 1988 the NASD received the claim of the Claimant. On December 18, 1989 and January 2, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in the submissions to arbitration signed on June 28, 1988 by Richard S. Dangerfield on behalf of the Claimant and by Respondent's counsel Henry Klein which was received by the NASD on November 29, 1989. The hearing was held in four sessions in New Orleans, Louisiana.

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. Norman Yentzen shall be liable for and pay to Charles Schwab & Company Fifty Five Thousand Dollars and No Cents (\$55,000);
2. The parties shall bear their own attorney's fees and costs;
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 \$1,250.00 filing fee previously deposited with the NASD by the Claimant and Claimant is assessed and shall pay to the NASD an additional \$250.00 in forum fees. The Respondent shall be assessed \$1,500.00 in forum fees, payable to the NASD.

By the Panel

Dated: 03/13/90

/S/ DANIEL EUGENE BIVINS III
PRESIDING CHAIR

Dated: 03/27/90

/S/ LARRY M. ROEDEL

Dated: 03/28/90

/S/ ROBERT R. WOLF

DATE SERVED: 04/02/90