

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
Kenneth Grossfeld,)
Claimant,)
vs.) Case #89-00276
Charles Schwab & Co., Inc.,) Award
and Charles Schwab individually,)
Respondents.)

Heard before the members of the Arbitration Panel:

Arthur J. Leibell, Esq.
Mr. Arie Leo Douer
Mrs. Penny N. Miller

CASE SUMMARY

This claim was filed with the NASD, Inc. on February 1, 1989. The hearing was conducted in Fort Lauderdale, Florida on September 28, 1989, October 13, 1989 and October 16, 1989 with a total of 4 sessions.

Claimant, Kenneth Grossfeld ("Grossfeld") alleged that Respondents, Charles Schwab & Co., Inc. ("CS") and Charles Schwab, individually ("Schwab") were liable for: breach of fiduciary duty; failure to supervise and negligence. Specifically, Claimant alleged that the representations of Respondents as to the service Claimant could expect from Respondents were false and untrue and that Respondents failure to have adequate phone lines available to handle the volume of business on October 16, 1987 resulted in Claimant's losses. Respondents asserted the affirmative defenses of: failure to state a claim; estoppel and improper venue. Additionally, Respondent, CS asserted a counterclaim for attorney's fees pursuant to Florida Statute Section 57.105.

RELIEF REQUESTED

Claimant requested unspecified damages plus interests and other costs. Respondents requested dismissal of the claim, attorney's fees and costs.

AWARD

On September 28, 1989, October 13, 1989 and October 16, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on January 30, 1989, and by Respondent on June 14, 1989. 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. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondents are not liable and therefore all claims against them are hereby dismissed.
3. Respondents counterclaim for attorney's fees is hereby dismissed in all respects.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrators have assessed forum fees in the amount of Three Thousand and 00/100 (\$3,000) Dollars (\$750 x 4 sessions). Claimant is hereby assessed forum fees in the amount of Three Thousand and 00/100 (\$3,000) Dollars. The NASD, Inc. shall retain the Seven Hundred Fifty and 00/100 (\$750.00) Dollar filing fee previously deposited by the Claimant as partial satisfaction of such forum fees.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Arthur J. Leibell, Esq.
Mr. Arish Leo Douer
Mrs. Penny N. Miller

Dated: October 26, 1989