

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between :
Charles Schwab and Company, Inc. :
Claimant : AWARD
vs. : #89-02250
Earnest Dave Earnheart :
Respondent :

Case Summary

Claimant, Charles Schwab and Co., Inc. alleged that Respondent, Earnest Dave Earnheart was liable for a debit balance in his margin account allegedly resulting from a maintenance liquidation that took place after Respondent Earnest Dave Earnheart maintained that Claimant failed to perform services contracted for satisfactorily, breached its duty to respondent, and did not handle the margin account in accordance with standard practice and procedure with industry practices.

Relief Requested

Claimant requested relief in the amount of \$10,053.98 plus interest at the legal rate from November 26, 1987. Respondent asserted a counterclaim for resulting damages in the amount Respondent's account should have been sold for less what may have been owed the Claimant plus costs and attorneys fees.

Award

On May 24, 1990 in Atlanta, Georgia, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant Charles Schwab & Co., Inc. on July 26, 1989 and by Respondent Earnest Dave Earnheart on May 14, 1990. The initial claim was filed on August 11, 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. Respondent Earnest Dave Earnheart is liable and shall pay to the Claimant the sum of Ten Thousand Fifty-Three Dollars and Ninety-Eight Cents (\$10,053.98) plus interest of One Thousand Nine Hundred Fifty-Three Dollars and no Cents (\$1,953.00) for an award total of Twelve Thousand Six Dollars and Ninety-Eights Cents (\$12,006.98).
2. The counterclaim of Respondent Earnest Dave Earnheart be and hereby is dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant as costs of the one hearing session conducted in this matter.

CONCURRING ARBITRATORS

/s/
Christopher Moran, Esq.

Dated: July 31, 1990