

**NASD**<sup>3</sup>

N.A.S.D. ARBITRATION

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Edward H. Fowler

90-02360

Name of Respondent

Charles Schwab & Company, Inc.

REPRESENTATION

For Claimant, Edward H. Fowler (Fowler): Fowler, who is not an attorney, represented himself.

For Respondent, Charles Schwab & Company, Inc. ("CS"): Tom Kramer, who is not an attorney.

CASE INFORMATION

Statement of Claim filed: August 24, 1990.

Claimant's Submission Agreement signed on: August 23, 1990.

Statement of Answer filed by Respondent, CS on: November 30, 1990.

Respondent, CS's Submission Agreement signed on: December 3, 1990.

HEARING INFORMATION

Hearing Date/Sessions: July 17, 1991/1 session.

Hearing Location: NASD, Inc./New York City, NY.

CASE SUMMARY

Claimant, alleged that he sold 15 UAL Inc. March 140 uncovered calls on February 26, 1990. Claimant stated that on March 19, 1990 he spoke to three (3) different registered representatives of CS and was told he was "short" 1500 shares of UAL stock. Claimant averred he endeavored to discern what "short" meant from all three (3) representatives but never received a satisfactory explanation. Claimant maintained that when he attempted to enter a new option position he was informed he could not enter the new

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position because he would have a fed call for \$50,000.00 on March 20, 1990 due to the UAL "short" position. Claimant alleged if CS would have accurately explained to him what a "short" was he would have immediately liquidated his position and would not have suffered a loss above 148.

Respondent alleged that Fowler opened his options account indicating his investment knowledge was "good". CS stated it sent the Basic Options Disclosure Document to Fowler pursuant to the Chicago Board of Options rules. CS maintained Fowler wrote 15 UAL March \$140.00 uncovered call options on February 26, 1990 and on March 26, 1990 was assigned an exercise by the Options Clearing Corporation due to the fact that UAL common stock closed more than 3/4 of a point "in the money". CS averred that as Fowler did not own 1500 shares of UAL at the time of the assignment, he was required to meet his delivery obligations through a short sale. CS stated it then sold 1500 shares of UAL stock short on Fowler's behalf. CS asserted it informed Fowler of the assignment and short sale on March 19, 1990 and then called Fowler back after Fowler requested further clarification of the matter. Later on that same day, CS maintained it told Fowler he could not place an order to write uncovered call options until he covered the short 1500 share UAL position. CS stated Fowler then decided he did not wish to maintain a short position in UAL and placed a market order to buy the UAL shares to cover his short position. Finally, CS asserted Fowler never called CS to ascertain the status of his UAL options, was informed that his 15 uncovered UAL call options had been assigned and was provided with sufficient information to know he had sold UAL stock that he did not currently own, and that it was Fowler's responsibility to have read and understood the Basic Disclosure Document.

#### RELIEF REQUESTED

Claimant requested: treble damages in the amount of \$13,875.00, plus interest in the amount of \$330.00.

Respondent requested: that Fowler's claim be denied in its entirety.

#### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrator has decided 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 be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD;

2- Respondent is hereby liable and shall pay to the Claimant the amount of \$2,312.50, plus interest at the rate of 9%, from the date of issuance of this

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award to the date of payment of this award;

3- All other claims are dismissed;

4- The parties shall each bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 non-refundable filing fee previously submitted by the Claimant. The following Forum Fee(s) are assessed:

1 session X \$300.00 = \$300.00.

Forum fees Assessed Against:

1- Claimant, in the amount of \$150.00. However, Claimant may use the \$300.00 hearing session deposit previously deposited to offset this fee, therefore, Claimant will receive a refund of \$150.00 and shall also receive \$100.00 erroneously deposited;

2- Respondent, in the amount of \$150.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator Signature

s/  
Constantine N. Katsoris

Date of Decision: July 26, 1991

STATE OF *New York*

S.S.:

COUNTY OF *New York*

On this *26<sup>th</sup>* of *July*, 1991, before me personally appeared Constantine Katsoris known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

*Susan J. Unger*

SUSAN J. UNGER  
NOTARY PUBLIC, State of New York  
No. 4971387  
Qualified in Nassau County  
Commission Expires September 4, 19*92*