

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Nabil A. Khabbaz

91-02181

Name of Respondents

Charles Schwab & Company, Inc.
Mark Lawrence
Vickie Seitner
John Schnaible

REPRESENTATION OF PARTIES

Claimant was represented by Rex J. Ridenour, Esq. of Dircks, Ridenour, Norman and Macek, Davenport, Iowa.

Respondents were represented by Scott W. Fowkes, Esq. of Kirkland & Ellis, Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about July 16, 1991.

Claimant's Submission Agreement signed on July 10, 1991.

Statement of Answer filed by Respondents, Charles Schwab & Co., Inc., Vicki Seitner, Mark Lawrence and John Schnaible on or about September 30, 1991.

Respondent Charles Schwab & Co., Inc.'s Submission Agreement signed by Richard S. Dangerfield.

Respondent Vicki Seitner's Submission Agreement signed on September 5, 1991.

Respondent Mark Lawrence's Submission Agreement signed on September 5, 1991.

Respondent John Schnaible's Submission Agreement signed on September 5, 1991.

HEARING INFORMATION

The hearing was held on Thursday, March 26, 1992 in Chicago, Illinois for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that Respondents improperly liquidated positions in his accounts to satisfy margin and maintenance calls.

Respondents stated that the stocks were liquidated only after the Claimant had failed to provide additional funds to cover the margin or maintenance calls as required. Respondents further stated that their actions were in full accordance with the agreement between the parties, securities laws and regulations and industry practice.

RELIEF REQUESTED

Claimant requested an award directing Respondents to restore his retirement plan and stock positions to the levels held on December 17, 1989, to purchase for his account 4000 (Four Thousand) shares of Best Buy Corporation, to reduce his margin debt of December 24, 1990 by \$7,000.00 (Seven Thousand Dollars), to pay him the sum of \$90,975.00 (Ninety Thousand Nine Hundred Seventy Five Dollars) in punitive damages and to reimburse him for his costs.

Respondents requested that the claim be denied.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the presentation of evidence by the parties the panel considered the Claimant's Motion for Leave to Amend the Statement of Claim and Respondent's response thereto which included argument that any claims involving transactions in October, 1987 be dismissed. After considering the written and oral arguments presented on behalf of the parties the panel denied the Motion to Amend on the grounds that it was not filed in a timely manner pursuant to Section 39 of the NASD Code of Arbitration Procedure and the additional claims asserted therein were time barred by the statutes of limitations.

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 original remains on file with the NASD.

Respondents Mark Lawrence and John Schnaible did not appear at the hearing on March 26, 1992, but having executed Submission Agreements, answered the claim and appeared through counsel, the arbitrators find that they will be bound by the panel's determination on all issues submitted.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Charles Schwab & Company, Inc. is liable for and shall pay to Claimant, Nabil A. Khabbaz, the sum of Seventeen Hundred fifty dollars and no cents (\$1750.00);

2. The claims asserted by Claimant, Nabil A. Khabbaz against Respondents, Mark Lawrence, Vickie Saitner and John Schnaible shall be and are hereby denied and dismissed in their entirety; and,

3. The parties shall each bear their own costs, expenses and attorney's fees incurred in this matter.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain the \$750.00 hearing session deposit previously deposited with the NASD by the Claimant. Respondent Charles Schwab & Company, Inc. is assessed and shall pay to the NASD forum fees in the sum of \$750.00 and shall pay to the Claimant the sum of \$750.00 as reimbursement of the hearing session deposit.

Forum fees are calculated at the rate of \$750.00 per hearing session for two hearing sessions.

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

Dated:

March 26, 1992

Panel Members Concurring

Thomas P. Ward

Thomas P. Ward, Esq.
Presiding Chair
Public Arbitrator

March 26, 1992

Robert S. Thomas

Robert S. Thomas, Esq.
Public Arbitrator

March 26, 1992

Robert J. Uhl

Robert J. Uhl
Industry Arbitrator

Date Award Served by the NASD:

3/27/92