

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

PUBLIC

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In the Matter of the Arbitration Between

Name of Claimant

Leonard F. Wheat

vs.

92-02014

Name of Respondent

Charles Schwab & Company, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on June 16, 1992, Claimant Leonard F. Wheat, who appeared Pro Se, alleged that Respondent Charles Schwab & Company, Inc. was negligent in effecting a sale of 1,800 shares of Tonka Corp. stock, by holding these shares in "streetname" rather than the Claimant's name. The Claimant further alleged that this caused these shares to be excluded from the dissent, and therefore he could not receive the additional value on these particular shares, causing a loss for which he should be compensated.

Respondent Charles Schwab & Company, Inc. through its in-house counsel, Richard S. Dangerfield, Esq., maintained that it was not negligent in its handling of the Claimant's shares of Tonka Corp. and that it was incumbent on him to ensure that he was in a position to perfect the dissention of all of his shares. The Respondent further maintained that the Claimant was acting on certain assumptions which were incorrect, and that since the Respondent was unaware of the assumptions on which Claimant Leonard F. Wheat was acting, it is not responsible for failing to correct them.

**RELIEF REQUESTED**

Claimant Leonard F. Wheat requested \$5,500.00 in actual damages, plus interest.

Respondent Charles Schwab & Company, Inc. requested the claims of the Claimant be dismissed.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jerry M. Hamovit, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 28, 1992 and by the Respondent on August 19, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Charles Schwab & Company, Inc. is liable and shall pay to Claimant Leonard F. Wheat \$5,500.00 in actual damages, plus simple interest at the rate of 12% per annum from June 5, 1992 to the date of payment of the award.
2. The parties shall bear their respective costs and attorney's fees.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Charles Schwab & Company, Inc. is liable and shall pay \$150.00 to the Claimant as reimbursement.

**AFFIRMATION**

I, **JERRY M. HAMOVIT, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: December 10, 1992