

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert F. Niemann FBO  
Robert F. Niemann IRA

92-02038

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 18, 1992, Claimant Robert F. Niemann, who appeared Pro Se, alleged that Respondent Charles Schwab & Company, Inc. liquidated his Vanguard High Yield Fund without his knowledge or consent and placed his money in the Schwab Money Market Fund, also without his consent. The Claimant further alleged that even though he reinvested in the Fund, nothing was done to compensate him for the loss of market value and interest he would have earned had he been kept in the Vanguard High Yield Fund.

Respondent Charles Schwab & Company, Inc., through its in-house counsel, Richard S. Dangerfield, Esq., maintained that it relied on instructions from the Claimant or Carey Financial Consultants, and that both the Claimant and the firm were furnished with statements indicating his ownership of the Money Market Fund. The Respondent further maintained that when it was instructed to sell the Schwab Money Market Fund shares and invest all of the Claimant's funds into the Vanguard High Yield Fund, it did so.

**RELIEF REQUESTED**

Claimant Robert F. Niemann requested \$10,000.00 in actual damages.

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

**AWARD**

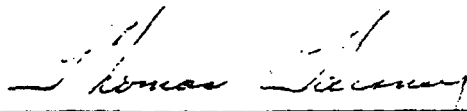
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Thomas J. Tarsney, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 3, 1992 and by the Respondent on August 20, 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. The claims of the Claimant Robert F. Niemann FBO Robert F. Niemann IRA against Respondent Charles Schwab & Company, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
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.

**AFFIRMATION**

I, **THOMAS J. TARSNEY, 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: May 24, 1993