

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Fred Gee

92-03301

Name of Respondent

Charles Schwab & Company, Inc.

REPRESENTATION

For Claimant: Anthony J. Hom, Esq.

For Respondent: Rita A. Maimbourg, Esq. of Arter & Hadden.

CASE INFORMATION

Statement of Claim filed: October 15, 1992.

Claimant's Submission Agreement signed on: September 17, 1992.

Statement of Answer filed by Respondent, Charles Schwab & Co., Inc. on:
November 18, 1992.

Respondent, Charles Schwab & Co., Inc.'s Submission Agreement signed on:
November 17, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: December 14, 1993 - 2 sessions

Hearing Location: NASD offices located in Cleveland, Ohio.

CASE SUMMARY

Claimant alleges that Respondent failed to liquidate his account in violation of the 35% equity margin requirements and that if Respondent had liquidated his account he would have avoided a loss. Claimant alleges that Respondent's conduct constitutes common law fraud, negligence, breach of fiduciary duty, breach of contract and a violation of Section 10b, Rule 10b-5 and 10b-16 of the federal securities laws. Claimant further alleges that Respondent failed to properly supervise its employees.

Respondent maintains that it was neither legally not contractually obligated to liquidate Claimant's account and therefore did not commit a breach of contract, fiduciary duty or duty of care. Respondent further maintains that it did not misrepresent or omit to disclose any material fact regarding the account. Respondent further maintains that it is not liable for failure to supervise because its employees did not commit any negligent or fraudulent acts. Respondent further maintains that the claims are barred by the applicable statute of limitations.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$142,000, plus interest, attorney's fees, costs and any other damages the panels deems just and fair.

Respondent requested that the claim be dismissed in its entirety.

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) The Statement of claim is hereby dismissed in its entirety.
- 2) Each party shall bear their respective costs of this action, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

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\$200.00	Non-refundable filing fee
\$1,500.00	Hearing Session fees (2 sessions x \$750.00)

- 1) Total forum fees in the amount of \$1,700.00 are hereby assessed against the Claimant. Claimant is entitled to offset this amount with the \$950.00 previously paid to the NASD, Inc. Claimant is directed to pay the balance of \$750.00 to the NASD, Inc.

Concurring Arbitrator's Signature

Name


Jeffrey M. Bain, Esq.

Public Chairperson

✓ Date of Decision: February 3, 1994

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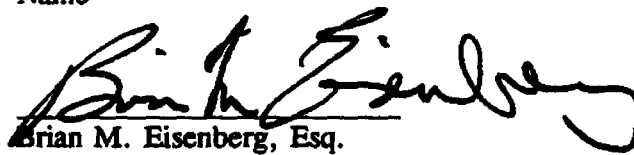
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Concurring Arbitrator's Signature

Name

Industry Arbitrator


Brian M. Eisenberg, Esq.

Date of Decision: February 3, 1994

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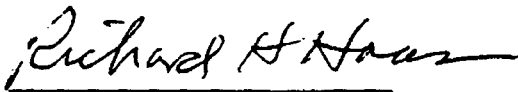
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Concurring Arbitrator's Signature
Name

Public Arbitrator



Richard H Haas, J.D

Date of Decision: February 3, 1994