

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Name of Claimant

Dennis Johnson

and

92-03900

Name of Respondent

Charles Schwab & Co., Inc.

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**REPRESENTATION OF PARTIES**

Claimant Dennis Johnson was represented by Lloyd S. Clareman, Esq., New York, New York.

Respondent Charles Schwab & Co., Inc. was represented by Gilbert R. Serota, Esq. of Howard Rice Nemerovski Canay Robertson & Falk, San Francisco, California.

**CASE INFORMATION**

The Statement of Claim was filed on or about November 17, 1992. Submission Agreement of Claimant Dennis Johnson was signed on November 11, 1992.

Statement of Answer was filed by Respondent Charles Schwab & Co., Inc. on or about January 13, 1993. Submission Agreement of Respondent Charles Schwab & Co., Inc. was signed on January 12, 1993 by Richard S. Dangerfield.

**HEARING INFORMATION**

The hearing was held on Wednesday, May 26, 1993 for three (3) sessions and Thursday, May 27, 1993 for two (2) sessions in Denver, Colorado for a total of five (5) sessions.

**CASE SUMMARY**

Claimant Dennis Johnson ("Claimant") alleged that Charles Schwab & Co., Inc. ("Respondent") through its employees, recommended and encouraged grossly unsuitable and excessive trading in options and common stocks. Claimant also stated that he had little education and limited experience in the securities markets. Claimant further alleged that Respondent failed to supervise its employees.

Respondent denied the allegations set forth in the Statement of Claim and stated that the Claimant made every investment decision himself and every one of his trades was unsolicited. Respondent also stated that the Claimant is an intelligent and successful businessman who built a lucrative real estate investment company, had maintained investment accounts at numerous brokerage firms, and has subscribed to a quotation service by which he is able to obtain real-time market data from the various exchanges. Respondent specifically stated that its employees never gave the Claimant advice or recommended trading strategies.

### **RELIEF REQUESTED**

Claimant requested an award of compensatory damages in the amount of \$137,474.00, interest at the legal rate from the time his damages were incurred to the date that an award in this matter is paid, and punitive damages in such amount as the arbitration panel deems appropriate.

Respondent requested that the claims be denied in their entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

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(s) remain on file with the N.A.S.D..

### **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 claims asserted in this matter shall be and hereby are dismissed and denied in their entirety.
2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

### **FORUM FEES**

Pursuant to Section 43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain as forum fees the hearing session deposit in the amount of \$750.00 previously deposited with the N.A.S.D. by the Claimant. Claimant Dennis Johnson shall pay to the N.A.S.D. the sum of \$3,000.00 as additional forum fees.

Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each prehearing conference, if any. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

Reid A. Godbolt

Reid A. Godbolt, Esq.  
Public Arbitrator, Presiding Chair

May 27, 1993

John E. Cave

John E. Cave, PhD.  
Public Arbitrator

5/27/93

Gary Biesiadecki

Gary Biesiadecki  
Industry Arbitrator

5/27/93