

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

William G. & Susan E. Monroe

93-01884

Name of Respondent

Charles Schwab & Company, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 11, 1993, Claimants William and Susan Monroe who appeared pro se, alleged that Respondent Charles Schwab and Co. failed to follow their instructions to sell their financial strategic Health Sciences Stock and to use the proceeds to purchase Oakmark Fund Stock; instead sending them the proceeds of the sale of FSHS. The Claimants further alleged that since they were led to believe the purchase of Oakmark did not take place, they executed this order through another broker, and were later told by Respondent Charles Schwab and Co. that they in fact did purchase the stock and that the claimants now owed it money for the trade. The Claimants contended that it attempted to resolve this matter to no avail, and eventually the Respondent sold, without their authorization, 11.5 shares of their Fidelity Magellan shares to cover the loss for selling the Oakmark Shares. Claimants William and Susan Monroe further contended that they should be compensated for the loss they incurred due to Respondent Charles Schwab & Company, Inc.'s rudeness, incompetence and disrespect.

Respondent Charles Schwab & Co. Inc. through it's in-house counsel, Richard S. Dangerfield, Esq. maintained that the Claimants were notified that there would be a one day delay between the sell and purchase and that a check for the proceeds of the sale was mailed to the claimants in accordance with longstanding instructions. The Respondent further maintained that the Claimants

were notified in writing about the purchase of Oakmark and that the Security would be sold if they did not pay for the transaction. Respondent Charles Schwab & Co. further contended that since the Claimants did not pay for the stock, it was sold at a loss to the firm, which the Claimants refused to pay, therefore leaving no choice but to liquidate 11.50 shares of Fidelity Magellan Fund to cover the debit.

In a reply filed by the Claimants, the Claimants reiterated that the Respondent did not carry out its contract properly since it mailed a proceed check to them instead of using the money to pay for the purchase, and that Respondent Charles Schwab & Co. is trying to make them pay for its mistakes.

RELIEF REQUESTED

Claimant, William and Susan Monroe requested \$738.36 in actual damages, plus \$1,500.00 in punitive damages, \$29.00 in commission paid, plus interest.

Respondent Charles Schwab & Co. requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Harry E. Jennings Jr., 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 April 20, 1993 and by the Respondent on June 30, 1993.

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 Claimants William G. and Susan E. Monroe against Respondents Charles Schwab & Co. are dismissed in their entirety.
2. The Claimants request for punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$50 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD.

AFFIRMATION

I, ⁵ⁿ HARRY E. JENNINGS, 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.

Harry E. Jennings

Signature of Arbitrator

DATED OF DECISION:

August 25, 1993.

DATED BY THE NASD, INC.: August 31, 1993