

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

Robert M. Gushiken
Elaine Gushiken

NASD Arbitration

No. 93-02738

v.

Name of Respondent

Charles Schwab & Company, Inc.

REPRESENTATION

For Claimants: Connie G. W. Meredith, Esq., Honolulu, Hawaii

For Respondent: Richard S. Dangerfield, Esq., Charles Schwab & Company, Inc., San Francisco,
California

CASE INFORMATION

Statement of Claim filed: July 12, 1993

Claimants' Submission Agreement signed: February 18, 1993

Statement of Answer filed: September 16, 1993

Respondent's Submission Agreement signed: September 15, 1993

HEARING INFORMATION

Hearing Dates / Sessions: July 26, 1994 - 3 sessions
July 27, 1994 - 1 session

Hearing Location: Honolulu, Hawaii

CASE SUMMARY

Claimants alleged that orders to sell 50 contracts of OEX October 330 puts in lot of 10 were not executed as requested on October 13, 1989, but at some other time, resulting in lower prices than should have been received. Claimants also alleged intentional misrepresentation, breach of fiduciary duty, unfair and deceptive practices.

Respondent denied the allegations, and asserted that the five blocks of 10 contracts were all sold as requested on October 13, 1989.

RELIEF REQUESTED

Claimants requested special damages of approximately \$50,000, punitive damages of \$100,000, treble damages under Hawaii Revised Statutes Chapter 480, costs of arbitration and attorney's fees.

Respondent requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND 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 originals remain on file with the NASD.

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. All claims, including the claim for punitive damages, asserted by Claimants are dismissed in their entirety.

2. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$200 non-refundable filing fee paid by the Claimants. Furthermore, the \$750 hearing session deposit paid by Claimants shall be retained as an assessment of forum fees for one session.

ARBITRATORS

Name

Vernon F. L. Chau
Leon Munson
Larry C. Jackson

Public / Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

Vernon F. L. Chau
Vernon F. L. Chau

Leon Munson
Leon Munson

Larry C. Jackson
Larry C. Jackson

Date of Decision: _____

STATE OF HAWAII ss.:

COUNTY OF Honolulu

On this 11th day of August 1994, before me personally appeared Vernon F. L. Chau to me known and known before me to be the individual described in and who executed the foregoing instrument and s/he duly acknowledged to me that s/he executed the same.

Charlene E. Monahan
My Commission exp: 7/12/97

Served 8/16/94

2. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

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ARBITRATORS

Name

Vernon F. L. Char
Leon Munson
Larry C. Jackson

Public / Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

Vernon F. L. Char

Leon Munson

Larry C. Jackson

Date of Decision: _____

STATE OF HAWAII ss.:

COUNTY OF Honolulu

On this 8th day of August 1994, before me personally appeared
Larry C. Jackson to me known and known before me to be the individual
described in and who executed the foregoing instrument and s/he duly acknowledged to me that
s/he executed the same.

Jean H. DeBonte

MY COMMISSION EXPIRES 2/11/96

CB Served 8/16/94

2. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

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ARBITRATORS

Name

Vernon F. L. Char

Leon Munson

Larry C. Jackson

Public / Industry

Public Arbitrator

Public Arbitrator

Industry Arbitrator

Concurring Arbitrators' Signatures

Vernon F. L. Char


Leon Munson


Larry C. Jackson

Date of Decision: 7/27/94

STATE OF HAWAII ss.:

COUNTY OF Honolulu

On this 8th day of August 19 94, before me personally appeared Leon Munson to me known and known before me to be the individual described in and who executed the foregoing instrument and s/he duly acknowledged to me that s/he executed the same.


My Commission Expires 8-2-95
Served 8/16/94