

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the matter of the Arbitration Between

JOHN R. WILSON, JOHN R. WILSON, Executor of the
Estate of Dorothy R. Wilson, JOHN R. WILSON,
Administrator of the Estate of Herbert S. Wilson,

Claimant,

v.

NASD No. 93-04027

CHARLES SCHWAB & CO.,

Respondent.

Representation

For Claimant: David Weilbacher, Esq., Arroyo Grande, California

For Respondent: Mark Dooks, Esq. of Bird, Marella, Boxer, Wolpert & Matz, Los Angeles,
California

Case Information

Statement of Claim filed: October 1, 1993

Claimant's Submission Agreement signed: September 28, 1993

Statement of Answer filed on: January 20, 1994

Respondent's Submission Agreement signed on: None filed. Respondent appeared at the
hearing and is subject to National Association of Securities Dealers (NASD) jurisdiction in
accordance with NASD Code of Arbitration Procedure Section 12.

Hearing Information

Prehearing Conference Date/Sessions: February 28, 1995/one

Hearing Date/Sessions: March 7, 1995/two, March 8, 1995/two

Hearing Location: Los Angeles, California

Case Summary

Claimant alleged:

Breach of fiduciary duty, negligence, lack of suitability, excessive trading, misrepresentation, failure to supervise and violation of Racketeer Influenced and Corrupt Organization Act in the transfer of funds and investment in unspecified securities, including naked options. Respondent failed to sufficiently inspect for the genuineness of a check for \$500,000, dated December 4, 1989, received from Herbert Wilson, (H. Wilson) Claimant's father, and co-signed with a forgery of Dorothy Wilson's [D. Wilson, (Claimant's mother)] signature. Respondent accepted another check for \$500,000, dated January 5, 1990, signed by H. Wilson, without the authorization of the co-signer, D. Wilson. D. Wilson was telephoned by Respondent and she refused to give authorization.

Respondent denied all allegations of wrongdoing and alleged:

H. Wilson and D. Wilson were husband and wife and the parents of Claimant John R. Wilson (Wilson). H. Wilson was a wealthy and experienced trader who began trading options at Charles Schwab (Schwab) in 1978. The terms of the parents' account at Schwab were fully disclosed, including the fact that Schwab gives no investment advice and does not manage investments. All risks associated with options trading were disclosed. In opening his Schwab account in 1978, H. Wilson represented he was retired, had annual income of \$70,000-\$100,000, with a net worth of \$2.5-\$3.5 million. He subsequently opened joint accounts with his wife and son in 1981 and a Trust Account in 1983.

The terms governing the joint accounts provided that each person was independently authorized to transact business in the account. H. Wilson initiated all transfers in his joint account with his son. H. Wilson was also empowered, as trustee, to act independently in withdrawing and transferring trust assets from the Trust Account. Moreover, there were no transfers from the Trust Account to a joint account held by H. Wilson and Maria Rodriguez.

No deposit of \$500,000 was made into the Trust Account without D. Wilson's approval on January 5, 1990. Schwab issued a check to H. Wilson on that date. Although not required, the check was issued with the specific approval of D. Wilson by telephone.

Relief Requested

Claimant requested:

1. Compensatory damages of \$500,000 for recovery of one-half of the two \$500,000 checks;
2. Punitive damages for disregard of customer's rights;
3. Compensatory damages of \$3,217,904 for damages sustained during the latter part of October 1987;
4. Punitive damages of \$6,000,000 based on the damages in Item No. Three, above.

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.

Respondent's Motion to Dismiss based on the Statute of Limitations was not decided because the panel decided the case on its merits.

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. Each and every claim is dismissed;
2. The claims for punitive damages are dismissed;
3. The parties shall each bear their respective attorney's fees;
4. The parties shall each bear their respective costs.

Other Costs

None.

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$1,500 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Claimant for \$3,000, minus \$1,500 already paid, leaving a balance due of \$1,500, and
Respondent for \$3,000,

calculated as follows: four hearing sessions at \$1,500/hearing session, equals \$6,000, assessed equally against the parties.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitration Panel


Name

Frank Smith
Milton Bennett
Leon Berger

Public/Industry

Public
Industry
Public

Concurring Arbitrators's Signatures

 3/16/94
Frank Smith

Milton Bennett

Leon Berger

Served 3/28/95

Date of Decision:

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$1,500 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Claimant for \$3,000, minus \$1,500 already paid, leaving a balance due of \$1,500, and
Respondent for \$3,000,

calculated as follows: four hearing sessions at \$1,500/hearing session, equals \$6,000, assessed equally against the parties.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitration Panel

<i>Name</i>	<i>Public/Industry</i>
Frank Smith	Public
Milton Bennett	Industry
Leon Berger	Public

Concurring Arbitrators's Signatures

Frank Smith



Milton Bennett

Leon Berger

Served 3/28/95

Date of Decision:

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$1,500 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Claimant for \$3,000, minus \$1,500 already paid, leaving a balance due of \$1,500, and
Respondent for \$3,000,

calculated as follows: four hearing sessions at \$1,500/hearing session, equals \$6,000, assessed equally against the parties.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitration Panel

<i>Name</i>	<i>Public/Industry</i>
Frank Smith	Public
Milton Bennett	Industry
Leon Berger	Public

Concurring Arbitrators's Signatures

Frank Smith

Milton Bennett



Leon Berger

Served 3/28/95

Date of Decision: