

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant(s)**

Victor S. Sands  
Charlene L. Sands, Trustees

NASD Arbitration  
No. 93-04822

**Name of Respondent(s)**

Charles Schwab & Co., Inc.

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**REPRESENTATION**

For Claimants: Bruce R. Safran, Esq., Sherman Oaks, California

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

**CASE INFORMATION**

Statement of Claim filed: November 9, 1993

Claimants' Submission Agreement signed: September 29, 1993

Statement of Answer filed by Respondent: January 27, 1994

Respondent's Submission Agreement signed: February 3, 1994

**HEARING INFORMATION**

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): September 29, 1994 (two sessions)

Hearing Location: Los Angeles, California

### CASE SUMMARY

Claimants alleged that Respondent handled Claimants' options account in a manner inconsistent with their objectives and inconsistent with their representations as to the manner in which Claimants' account was to be handled. Claimants further alleged breach of fiduciary duty and breach of the implied covenant of good faith and fair dealing with respect to their options account.

Respondent denied any liability to Claimants and alleged that in handling Claimants' option trading account, Respondent acted entirely within its explicit contractual rights and in accordance with governing regulations. Respondent also asserted various defenses.

### RELIEF REQUESTED

Claimants requested:

1. Damages in the amount of \$191,371.00;
2. Damages for emotional distress;
3. Attorney's fees, interest, costs, and disbursements;
4. Such other and further relief as may be deemed appropriate; and
5. Claimants waive any damages in excess of \$500,000.00.

Respondent requested that Claimants' claims be denied in their entirety.

### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 National Association of Securities Dealers, Inc. (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. Respondent is liable for and shall pay to Claimants the sum of Five Hundred Dollars And No Cents (\$500.00), in satisfaction of Claimants' claims.

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 following forum fees are assessed: The NASD shall refund the \$750.00 hearing session deposit previously deposited by the Claimants. Forum fees are assessed against Respondent in the amount of \$1,500.00, calculated as follows: Two hearing sessions times \$750.00/session.

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

#### ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
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Wayne E. Gallop, Esq.

Public Arbitrator

Robert S. Clarke

Public Arbitrator

Robert Taylor

Industry Arbitrator

#### Concurring Arbitrators' Signatures

Wayne E. Gallop, Esq.



Robert S. Clarke

Robert Taylor

Date Served: 11-8-94

Date of Decision: 27 OCT '94