

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Tedmund L. Gean
Siew Hong Lim

NASD Arbitration
No. 94-00344

Name of Respondent(s)

Charles Schwab & Co., Inc.
Randall Kirk

REPRESENTATION

For Claimants: Tedmund L. Gean, Los Angeles, California

For Respondents: Thomas R. Freeman, Esq., Bird, Marella, Boxer,
Wolpert & Matz, Los Angeles, California

CASE INFORMATION

Statement of Claim filed: January 22, 1994

Amendment to Statement of Claim filed: April 12, 1994

Claimants' Submission Agreement signed: January 3, 1994

Joint Statement of Answer filed by Respondents: March 31, 1994

Respondents' Submission Agreements signed as follows:

Charles Schwab & Co., Inc.: March 31, 1994
Randall Kirk: April 19, 1994

HEARING INFORMATION

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

Hearing Date(s)/Session(s): January 5, 1995 (two sessions)
 January 6, 1995 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that their dispute centers around activities in Claimants' account LA#35980134 and that this account was a student cash account owned by the Claimants, tenants-in-common. Regarding investments in Spectrum Information Technology common stock and Spectrum Information Technology warrants, Claimants alleged that Respondents should not have released the cash-up-front restriction on the Claimants' account without receiving additional verifiable information concerning the Claimants' financial situation and that this extension of credit to the Claimants violated Regulation T, section 220.8. Claimants further alleged that Respondents converted the Claimants' cash account to a margin account in order to circumvent the requirements of Regulation T, and alleged National Association of Securities Dealers, Inc. (NASD) rule violations, breach of fiduciary duties and fraud.

Respondents denied Claimants' allegations of wrongdoing and alleged that they properly disclosed all terms and conditions governing Claimants' joint account, properly removed the cash-up-front restriction at Claimant Siew Hong Lim's request, properly executed the unsolicited trades placed by Ms. Lim, and properly followed her instructions in connection with establishing a margin account and carrying the trades therein. Respondents further alleged that all of the losses incurred in Claimants' joint account were the result of Ms. Lim's independent and intentional actions in pursuing a self-chosen trading strategy.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$42,957.85, plus interest in the amount of \$624.00 plus punitive damages in the amount of \$300,000.00.

Respondents requested dismissal of Claimants' claims 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 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 by Claimants, including the claim for punitive damages, are dismissed.

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 retain the \$750.00 hearing session deposit previously deposited by the Claimants. Forum fees are to be split between Claimants and Respondent Charles Schwab & Co., Inc. and are calculated as follows:

Four hearing sessions @ \$750.00/session	=	\$3,000.00
Total fees assessed	=	\$3,000.00
Claimants' share (50%)	=	\$1,500.00
Credit for hearing deposit	=	\$ 750.00
Balance due	=	\$ 750.00
Charles Schwab & Co., Inc.'s share (50%)	=	\$1,500.00
Balance due	=	\$1,500.00

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

ARBITRATORS

Name Public / Industry

Lambert M. Javelera, Esq.

Public Arbitrator

Daniel J. McCarthy, Jr.

Public Arbitrator

Maurice Schwarz, Jr.

Industry Arbitrator

Concurring Arbitrators' Signatures

Lambert M. Javelera, Esq.

Daniel J. McCarthy, Jr.

Maurice Schwarz, Jr.
Maurice Schwarz, Jr.

Date of Decision:

Jan. 27, 1995

Date Served: 2-2-95