

176 9607047
N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Kwok Yan Liu and Vincent W. Chiu

95-04671

Name of Respondent

© National Association of
Securities Dealers, Inc.

* Charles Schwab & Company, Inc.

All Rights Reserved

SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 3, 1995, Claimants Kwok Yan Liu and Vincent W. Chiu ("Claimants"), who appeared Pro Se, alleged that Respondent Charles Schwab & Co., Inc. ("Respondent") failed to cancel their buy orders for Fonar. Claimants further alleged that on May 27, 1995, they each bought 5,000 shares of Fonar through the Respondent's Telebroker system. Claimants contended that approximately one hour after they placed their original orders, they decided to call the Telebroker system to cancel the orders in both of their accounts. Claimants further contended that on May 27, 1995, they received several confirmations in Cantonese that their order had been canceled. Claimants asserted that they subsequently discovered that their orders had not been canceled. Claimants further asserted that the Respondent's Telebroker system is flawed because a reference number for the trade is generated for a buy order, but not a sell order, thus putting the Claimants at a disadvantage in the present dispute. Claimants contended that due to the wrongdoing of the Respondents, they have suffered damages for which the Respondents should be held liable.

Respondent Charles Schwab & Co., Inc., through its representative, Becky Kumar, maintained that the Telebroker records conclusively demonstrate that the Claimants never canceled or attempted to cancel their order to purchase stock. Respondent further maintained that the Claimants' contention that they heard the announcement that their orders were canceled immediately after placing the cancellation request is simply untrue, since this system is not programmed to make immediate announcements when orders are canceled. Respondent alleged that the Claimants never intended to cancel their orders and are attempting to shift their investment losses onto Respondent. Respondent denied any wrongdoing and requested that the Claims of the Claimant be dismissed. Respondent maintained that Claimant Chiu has failed to reimburse it for the purchase of the 5,000 shares of Fonar, and Respondent counterclaimed against Claimant Chiu in the amount of \$4,537.50.

960570477

RELIEF REQUESTED

Claimant Kwok Yan Liu requested \$4,225.00 in actual damages. Claimant Vincent W. Chiu requested relief requiring Respondent Charles Schwab & Co. to cease efforts to collect the sum of \$4,537.50 in actual damages.

Respondent Charles Schwab & Co., Inc. requested that the claims of the Claimants be dismissed. In a counterclaim against Vincent W. Chiu Respondent Charles Schwab & Co., Inc. requested \$4,537.50 in actual damages, plus interest,

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert M. Stein, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Kwok Yan Liu and Vincent W. Chiu on September 29, 1995 and October 24, 1995, and by the Respondent Charles Schwab & Co., Inc. on December 6, 1995 and December 18, 1995.

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 Claimants Kwok Yan Liu and Vincent W. Chiu against Respondent Charles Schwab & Co. are dismissed in their entirety.
2. Counterrespondent Vincent W. Chiu is liable and shall pay to Counterclaimant Charles Schwab & Co., Inc. \$4,537.50 in actual damages plus interest at the rate of 12% from May 30, 1995 until the date of payment of the award.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Vincent W. Chiu and Kwok Yan Liu shall be retained by the NASD, Inc.

9607047

AFFIRMATION

STATE OF WASHINGTON

}
}

SS:

COUNTY OF KING

I, Robert M. Steina, 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.


Signature of Arbitrator

DATE OF DECISION:

July 16, 1996