

**NASD REGULATION, INC.
OFFICE OF DISPUTE RESOLUTION
ARBITRATION AWARD**

NASD REGULATION, INC. - OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

John Vitali

NASD Regulation, Inc.
Office of Dispute Resolution
Arbitration No. 96-01096

Name of Respondent

Charles Schwab & Co., Inc.

REPRESENTATION

For Claimant:

Jonathan W. Evans, Esq.
Los Angeles, California

For Respondent:

Gregory Scanlon
Charles Schwab & Co., Inc.
San Francisco, California

CASE INFORMATION

Statement of Claim filed:

March 12, 1996

Claimant's Answer to Respondent's Counterclaim filed:

May 21, 1996

Claimant's Submission Agreement signed:

March 4, 1996

Statement of Answer and Counterclaim
filed by Respondent:

May 17, 1996

Respondent's Submission Agreement signed:

May 15, 1996

HEARING INFORMATION

Hearing Dates / Sessions:

February 7, 1997 (2 sessions)

Hearing Location:

Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondent committed negligence, misrepresentation, unauthorized trading in Claimant's account, failure to supervise and monitor conduct of its "Telebroker" service and violations of the Federal Securities Laws and NASD Rules of Fair Practice. Specifically, Claimant asserted that due to Respondent's "Telebroker" service his purchase order and subsequent cancellation of the order were never effectively entered, which resulted in a loss of \$18,625.00 to Claimant's account.

Claimant, in his answer to Respondent's Counterclaim denied that he owed Respondent any money in connection with his account and sought dismissal of Respondent's Counterclaim in its entirety.

Respondent denied each and every allegation in Claimant's Statement of Claim. Respondent further alleged that Claimant placed his cancel request after the purchase order had already been entered and therefore was too late.

Respondent, in its Counterclaim, additionally sought damages for the full debit owing in Claimant's account in the amount of \$6,801.21.

RELIEF REQUESTED

Claimant sought \$18,625.00 in compensatory damages, disgorgement of all broker commissions, interest at the legal rate of 10% from November 14, 1995, a declaration that no sums are due and owing from Claimant to Respondent and dismissal of Respondent's Counterclaim in its entirety.

Respondent sought dismissal of Claimant's Statement of Claim in its entirety, damages in the amount of \$6,801.21, costs and fees associated with this arbitration.

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 original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

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 Charles Schwab & Co., Inc. is liable for and shall pay the sum of \$19,650.00 to Claimant. Such award includes Claimant's claims for interest and costs.
2. Respondent Charles Schwab & Co., Inc.'s claims against Claimant are denied in their entirety.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Respondent Charles Schwab & Co., Inc.:

| | |
|--|-----------------------|
| <u>Two (2) Hearing Sessions @ \$400.00/Session</u> | <u>= \$800.00</u> |
| Total Forum Fees Assessed | = \$800.00 |
| <u>Respondent's Credit for Hearing Session Deposit</u> | <u>= \$300.00</u> |
| Respondent's Balance Due | = \$500.00 |


Claimant's Hearing Session Deposit of \$400.00 shall be refunded by the NASD Regulation, Inc.

Fees are payable to the NASD Regulation, Inc.

ARBITRATORS

| <u>Name</u> | <u>Public / Industry</u> |
|-----------------------|--------------------------|
| J. Jean Elliott, Esq. | Public Arbitrator |
| Andrew J. Sorenson | Industry Arbitrator |
| Richard Gordon | Public Arbitrator |

Concurring Arbitrators' Signatures



J. Jean Elliott, Esq.

Andrew J. Sorenson

Richard Gordon

Date of Decision: 2/22/97

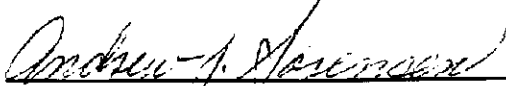
Date of Service: _____

ARBITRATORS

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| Andrew J. Sorenson | Industry Arbitrator |
| Richard Gordon | Public Arbitrator |

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J. Jean Elliott, Esq.



Andrew J. Sorenson

Richard Gordon

Date of Decision: _____

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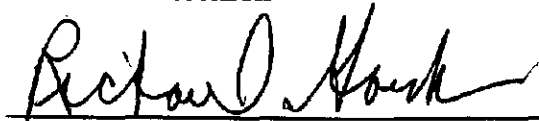
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