

**NASD REGULATION, INC. AWARD**

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

In the matter of the Arbitration Between

Name of Claimant

Prosper Amsellem

v.

Arbitration No.  
96-02116

Name of Respondent

Charles Schwab & Co., Inc.

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**REPRESENTATION**

For Claimant:

Jonathan W. Evans, Esq.  
Attorney at Law  
Los Angeles, California

For Respondent:

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

**CASE INFORMATION**

Statement of Claim filed:

May 8, 1996

Claimant's Submission Agreement signed:

April 16, 1996

Statement of Answer filed by Respondent:

August 1, 1996

Respondent's Submission Agreement signed:

July 12, 1996

### **HEARING INFORMATION**

Pre-Hearing Conference Dates/Sessions: February 14, 1997 (1 session)

Hearing Dates/Sessions: April 28, 1998 (2 sessions)  
April 29, 1998 (2 sessions)  
April 30, 1998 (2 sessions)  
May 1, 1998 (2 sessions)  
May 5, 1998 (2 sessions)

Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimant alleged Respondent committed negligence, misrepresentation, churning, breach of fiduciary duty and violations of Federal Securities laws and NASD Rules of Fair Practice. Additionally, Claimant asserted Respondent made unauthorized trades in his account, failed to monitor the activity of Claimant's account, failed to supervise the conduct of its brokers and recommended unsuitable investments for Claimant.

Respondent denied each and every allegation contained in Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant sought the following relief:

1. Compensatory damages of \$530,000.00, according to proof;
2. Disgorgement of commissions in a sum according to proof;
3. Interest at the legal rate of 10% from the date losses were sustained, according to proof;
4. Punitive damages in an amount to justify and equitably punish Respondents;
5. Cost of arbitration including expert witness fees, filing fees, and hearing costs, and;
6. Reasonable attorneys fees.

Respondent sought dismissal of the Statement of Claim in its entirety, and costs of the proceeding.

### **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. Claimant's claims are denied in their entirety.

### **FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Respondent:

One (1) Single Arbitrator Pre-Hearing Conference @ \$300.00/Conference	= \$300.00
<u>Ten (10) Hearing Sessions @ \$1,000.00/Session</u>	<u>= \$10,000.00</u>
Total Forum Fees Assessed	= \$10,300.00
 Respondent's Balance Due	 = \$10,300.00

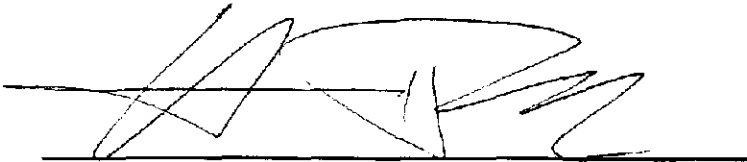
Claimant's Hearing Session Deposit in the amount of \$1,000.00 shall be refunded by NASD Regulation, Inc.

Fees are payable to NASD Regulation, Inc.

**ARBITRATORS**

<b><u>Name</u></b> .....	<b><u>Arbitrators</u></b>
Henry Pollard, Esq.	Public Arbitrator
Charles A. Graham	Industry Arbitrator
Antonia D. March	Public Arbitrator

**Concurring Arbitrators' Signatures**



Henry Pollard, Esq.

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Charles A. Graham

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Antonia D. March


Date of Service: May 27, 1998

**ARBITRATORS**

<u>Name.....</u>	<u>Arbitrators</u>
Henry Pollard, Esq.	Public Arbitrator
Charles A. Graham	Industry Arbitrator
Antonia D. March	Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Henry Pollard, Esq.

  
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Charles A. Graham

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Antonia D. March

Date of Service: 27 May 1998

ARBITRATORS

<u>Name</u> .....	<u>Arbitrators</u>
Henry Pollard, Esq.	Public Arbitrator
Charles A. Graham	Industry Arbitrator
Antonia D. March	Public Arbitrator

Concurring Arbitrators' Signatures

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Henry Pollard, Esq.

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Charles A. Graham

  
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Antonia D. March

Date of Service: \_\_\_\_\_

5/27/98