

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Norman L. Pasnow, individually and as Trustee of
The Norman L. Pasnow Trust &
Suzanne H. Pasnow

and

96-03508

Name of Respondent

Charles Schwab & Co., Inc.

REPRESENTATION OF PARTIES

Norman L. Pasnow individually and as Trustee of The Norman L. Pasnow Trust & Suzanne H. Pasnow ("**Claimants**") were represented by Robert H. Winter, Esq., Denver, Colorado.

Charles Schwab & Co., Inc. ("**Respondent**") was represented by Eric L. Hilty, Esq., Holland & Hart, LLP, Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about August 14, 1996. Submission Agreement of Claimants Norman L. Pasnow, individually and as Trustee of The Norman L. Pasnow Trust & Suzanne H. Pasnow was signed on August 12, 1996 by Suzanne H. Pasnow in her individual capacity and under a Power of Attorney.

Statement of Answer was filed by Respondent Charles Schwab & Co., Inc. on or about November 22, 1996. Submission Agreement of Respondent Charles Schwab & Co., Inc. was signed on November 27, 1996 by Linda Drucker.

HEARING INFORMATION

The hearing was held on June 18, 1997 for two (2) sessions and June 19, 1997 for two (2) sessions in Denver, Colorado for a total of four (4) sessions.

CASE SUMMARY

Claimants alleged that Respondent breached its contract, was negligent and breached its duty of care to the Claimants by allowing the improper transfer of monies, improper payments, or other improper activities against Claimants. Specifically, Claimants alleged that Respondent allowed the payment, transfer or disbursement of funds from their account without the signature of Claimant Norman L. Pasnow.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that Claimant Norman L. Pasnow had executed a full power of attorney to John R. Bryan, Jr.. Respondent further stated that it had questioned Mr. Pasnow about the use of the full power of attorney by Mr. Bryan and Mr. Pasnow affirmed the continued use of the full power of attorney by Mr. Bryan. It was also stated by Respondents that Mr. Bryan was charged and plead guilty to third degree theft.

RELIEF REQUESTED

Claimants requested an award as follows: in an amount to be determined at the hearing, plus costs, interest, attorneys' fees, and exemplary damages, and for such other and further relief as the Panel deems just and proper.

Respondent requested that the claims asserted in this matter be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

Prior to the commencement of the hearing, Claimant Norman L. Pasnow passed away. The Estate of Norman L. Pasnow was substituted for Norman L. Pasnow.

After the conclusion of the Claimant's case in chief, Respondent asserted a Motion for Directed Verdict. After considering the pleadings, the evidence and testimony and the arguments presented by the parties, the undersigned arbitrators **denied** the motion.

The parties have agreed that the Award in this matter may be executed in 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(s) remain 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. All claims asserted in this matter shall be and hereby are dismissed and denied in their entirety.
2. Each party shall bear its own costs, expenses and fees, including attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each pre-hearing conference, if any. There were four (4) sessions x \$600 = \$2,400 in forum fees. Pursuant to Rule 10332(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$250 and shall **retain** as forum fees the hearing session deposit in the amount of \$600 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimants The Norman L. Pasnow Trust & Norman L. Pasnow. Claimants Norman L. Pasnow, individually and as Trustee of The Norman L. Pasnow Trust & Suzanne H. Pasnow shall be and hereby are jointly and severally liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$600 as forum fees. Respondent Charles Schwab & Co., Inc. shall be and hereby is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$1,200 as the balance due for forum fees.

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$350. **Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.**

/s/ Edmund Epstein, Esq.

Edmund Epstein, Esq.
Public Arbitrator, Presiding Chair

June 24, 1997

/s/ Jerry Alan Donley

Jerry Alan Donley, Esq.
Public Arbitrator

June 25, 1997

/s/ Scott Steinhauer

Scott Steinhauer
Industry Arbitrator

June 25, 1997