

NASD REGULATION, INC. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Hessein M. Afify

96-05095

Name of Respondent

Charles Schwab & Company, Inc.

REPRESENTATION

Claimant Hessein M. Afify ("Afify") was represented by Donald W. Jones, Esq. and Rehan N. Khawaja, Esq. of the Law Offices of Rehan N. Khawaja, Jacksonville, Florida until, on or about, September 8, 1997 at which time Claimant appeared pro se.

For Respondent Charles Schwab & Company, Inc. ("Schwab"): Gary H. Glaser, Esq. and Philip K. Davidoff, Esq. of Winston & Strawn, New York, New York.

CASE INFORMATION

Statement of Claim filed: November 15, 1996.

Claimant's Submission Agreement signed on: November 13, 1996.

Statement of Answer filed by Respondent on: February 26, 1997.

Respondent's Submission Agreement signed on: February 7, 1997.

HEARING INFORMATION

Telephonic pre-hearing conferences lasting seven sessions were conducted with the arbitration panel on the following dates: May 13, 1997; August 26, 28, 1997; and, September 4, 10, 11, 12, 1997.

Telephonic pre-hearing conferences lasting six sessions were conducted with the Chairperson on the following dates: August 8, 21, 1997; September 12, 1997; and, October 27, 1997.

Hearings lasting twenty-five sessions were conducted in Tampa, Florida on the following dates: September 15, 16, 17, 18, 19, 24, 25, 26, 29, 30, 1997; and, October 21, 22, 23, 1997.

CASE SUMMARY

Claimant alleged that he was very happy working at Charles Schwab and that his career was on the

upward track until Sandy Korth became his manager; that after Claimant rejected Korth's advances Korth's conduct radically changed; that the situation at Schwab caused the Claimant to become depressed and caused his marriage to end in divorce and led to the Claimant's transfer from Schwab's Reno, Nevada office to their office in Orlando, Florida; that in Orlando the Claimant faced retaliation, national origin, religious, racial and sexual discrimination and a hostile working environment; that Schwab's Human Resources department completely ignored Claimant's concerns; that on numerous occasions, Claimant asked Schwab for assistance; and, that as a result of the situation at Schwab the Claimant's health significantly deteriorated.

Respondent alleged that Claimant Afify's claims were wholly without merit and that Claimant was terminated on December 11, 1995 for having made serious and direct threats of violence to himself, Schwab and Schwab employees; that the threats were viewed as so serious by the mental health professional counseling Claimant that she felt compelled to have Claimant involuntarily committed under Florida's Baker Act and to disclose the threats to Schwab; that Claimant thereafter alleged that he had been discriminated against on the basis of his national origin, race, religion and mental disability; that Claimant admittedly never complained about such discrimination at any time during his employment; that Claimant also later alleged that he had been subjected to sexual harassment while assigned to his first Schwab branch office.

RELIEF REQUESTED

Claimant requested damages in the sum of \$5,000,000.00 plus interest and attorneys' fees.

Respondent requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with NASD Regulation, Inc.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

Respondent Schwab is found liable and shall pay to the Claimant compensatory damages in the sum of \$50,000.00.

The Claimant's requests for interest and attorneys' fees are denied.

FORUM FEES

Pursuant to Rule 10205 of the Code of Arbitration Procedure, the panel has assessed forum fees in the sum of \$33,800.00 (seven pre-hearing conferences with the arbitration panel x \$1,000.00 plus six pre-hearing conferences with the chairperson x \$300.00 plus twenty-five hearing sessions x \$1,000.00).

- 1) Respondent is hereby assessed \$30,420.00 for which NASD Regulation, Inc. shall retain the \$15,000.00 previously deposited in partial satisfaction thereof, leaving a balance due in the sum of \$15,420.00.

- 2) Claimant is hereby assessed \$3,380.00 for which NASD Regulation, Inc. shall retain the \$1,000.00 previously deposited in partial satisfaction thereof, leaving a balance due in the sum of \$2,380.00.
- 3) NASD Regulation, Inc. shall retain the \$500.00 member surcharge previously paid by the Respondent.

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

Concurring Arbitrators' Signatures

/S/

Janice C. Buchman, Esq.
Chairperson
Public Arbitrator

/S/

Ronald H. Walton
Industry Arbitrator

/S/

David S. Bland, CPA
Public Arbitrator

12/8/97

Date of Decision: _____