

## **AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

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In the Matter of the Arbitration Between

Max Drew and Sara Drew,

Claimants,

v.

No. 96-05385

Charles Schwab & Co., Inc.,  
Vance Williams, and  
Terry Bonnett,

Respondents.

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### **REPRESENTATION OF PARTIES**

Claimants Max Drew and Sara Drew were represented by Frederick K. Hoops, Esq. of Hoops, Hoops, & Hoops located in Farmington Hills, Michigan.

Respondents Charles Schwab & Co., Inc. ("Schwab"), Vance Williams ("Williams"), and Terry Bonnett ("Bonnett") (collectively referred to as "Respondents") were represented by Raymond W. Henney, Esq. and Jean-Vierre Adams, Esq. of Honigman, Miller, Schwartz and Cohn located in Detroit, Michigan.

### **CASE INFORMATION**

The Statement of Claim was filed on or about December 4, 1996.

Claimants' Submission Agreement was signed on December 27, 1996.

The Joint Statement of Answer was filed on or about March 11, 1997.

Respondents did not file signed Submission Agreements.

The Amended Statement of Claim was filed on or about November 3, 1997.

The Amended Statement of Answer was filed on or about February 20, 1998.

### **HEARING INFORMATION**

A telephonic pre-hearing conference was held on September 8, 1997 for one (1) session, January 9, 1998 for one (1) session, April 14, 1998 for one (1) session, and April 21, 1998 for one (1) session.

The hearing was held on April 28, 1998 for two (2) sessions, April 29, 1998 for three (3) sessions, and April 30, 1998 for three (3) sessions.

The hearing was held in Southfield, Michigan.

### **CASE SUMMARY**

Claimants alleged that Respondents made unauthorized option trades in their accounts, failed to close or to keep open option positions as Claimants instructed, failed to provide a separate detailed breakdown of their option transactions and failed to properly report trades. Claimants maintained that Respondents engaged in a continuum of negligent and/or intentional acts which violated the various federal and state securities laws, statutes, and the rules and regulations of the NASD and NYSE.

Respondents denied all liability to Claimants in the Joint Statement of Answer. Respondents alleged that Claimants had numerous years of option trading experience and understood the inherent risks of trading options. Respondents contended that Claimants placed unsolicited option trades in their account and Respondents merely executed the trades as instructed. Respondents asserted that Respondents provided Claimants with account statements and written trade confirmations for every trade at issue.

### **RELIEF REQUESTED**

In the Amended Statement of Claim, Claimants requested an award of the following: \$129,111.00 as out-of-pocket damages; interest at 12%; costs; attorney fees; exemplary and punitive damages; additional damages; and rescission of all transactions and payment of all monies necessary to make them whole.

Respondents requested that the Statement of Claim be dismissed in its entirety with prejudice, plus an award of costs. Respondents also requested that all reference to this matter be expunged from the CRD records of Respondents Williams and Bonnett.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondents did not file with NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but are required to submit to arbitration pursuant to §10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

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 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) That the Statement of Claim is dismissed in its entirety with prejudice. The panel finds that the claim is without merit;
- (2) That this matter is ordered expunged from the Central Registration Depository of the National Association of Securities Dealers, Inc. for the record of Respondents Vance Williams and Terry Bonnett;
- (3) That other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- (4) That any relief not specifically enumerated and addressed is hereby denied with prejudice.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each pre-hearing conference, if any. There were four (4) pre-hearing sessions x \$300 = \$1,200 in forum fees. There were eight (8) hearing sessions x \$750 = \$6,000 in forum fees. Total forum = \$7,200. Pursuant to §10332(b) of the Code, 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 §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$200 and shall retain as forum fees the hearing session deposit in the amount of \$750 previously deposited by the Claimants.

Pursuant to §10332(c) of the Code, Claimants are liable for and shall pay forum fees in the amount \$6,450 (total forum fees - hearing session deposit).

Pursuant to §10319 of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain Respondents' postponement deposit in the amount of \$750.

Pursuant to §10333 of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain Respondent Schwab's member surcharge in the amount \$350.

**Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.**

Concurring Arbitrators' Signatures:

\s\ Michael B. Laikin, Esq.

Michael B. Laikin, Esq.  
Chairperson  
Public Arbitrator

May 7, 1998

Dated:

\s\ Richard L. Koblinski, Esq.

Richard L. Koblinski, Esq.  
Panelist  
Public Arbitrator

May 5, 1998

Dated:

\s\ Terry F. Peppard, Esq.

Terry F. Peppard, Esq.  
Panelist  
Industry Arbitrator

May 4, 1998

Dated:

For NASD Regulation use only:

Date award served on parties: May 7, 1998