

**IN ARBITRATION
UNDER CHAPTER XVIII OF THE RULES
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

In The Matter Of)	
)	
Customer [*] ,)	
)	
Claimant,)	DECISION
)	
v.)	File No. 96NM03
)	
Charles Schwab & Co., Inc.,)	
)	
Respondent.)	
)	

Representation

For Claimant(s): Jeffrey A. Feldman, San Francisco, CA

For Respondent(s): Michael Lawson and John P. Halfpenny, Steefel Levitt & Weiss, San Francisco, CA

Pleadings

Statement of Claim and Submission Agreement, filed on or about:	April 22, 1996
Answer, filed on or about:	June 18, 1996
Respondent's Submission Agreement, filed on or about:	July 25, 1996
Respondent's Arbitration Brief, submitted:	February 14, 1997

Hearing

The named parties appeared at the hearing specified below, and had full opportunity to present arguments and evidence.

Date(s):	February 13 & 14, 1997	No. of Sessions:	3
Location:	San Francisco, CA		

Summary of Issues

The dispute involves transactions in Standard & Poor's 500 Index Option put contracts ("OEX Index Options") from April through June 1995. Claimant asserts that on two separate dates during the subject time period, he transferred a total of \$140,000.00 from his IRA Account at Charles Schwab & Co., Inc. ("Respondent") to his Money Market Account and from there transferred the sum to his Options Account with Respondent in order to trade short-term OEX

^{*} Claimant requests confidentiality pursuant to CBOE Rule 18.31.

Index Options through the Schwab 500 Team. Claimant further asserts that he incurred substantial losses due to the purchase of the short-term OEX Index Options prior to June 23, 1995, when Respondent prohibited Claimant from any further options trading. Claimant alleges that Respondent had a duty to close out his account prior to his incurring substantial losses. Claimant further alleges that Respondent bears responsibility for the losses due to Respondent's failure to supervise his account, Respondent's breach of its fiduciary duty toward Claimant, and Respondent's breach of an implied in fact agreement to follow its compliance procedures and policies. Claimant requests an award of compensatory damages against Respondent in the amount of \$115,096.64 for actual trading losses, \$9,000.00 for tax liability incurred on the early withdrawal of the IRA funds, lost interest and arbitration costs.

Respondent denies all allegations and requests the dismissal of all claims.

Award*

After due deliberation and consideration of the hearing testimony, documentary evidence, and other submissions of the parties, the undersigned arbitrators, in full and final resolution of the matter in controversy, award as follows:

Claimant's claims against Respondent are denied in their entirety.

Forum Fees

Pursuant to Chicago Board Options Exchange ("Exchange") Rule 18.33, the Arbitrators assess forum fees in the total amount of \$2,450.00 (3 times \$750.00 plus the \$200.00 filing fee) as follows:

1. Responsibility for the forum fees shall be divided equally between the parties. Therefore, Claimant shall pay to the Exchange the sum of \$275.00 and Respondent shall pay to the Exchange the sum of \$1,225.00.
2. The Exchange shall retain the non-refundable filing fee in the amount of \$200.00 and the hearing session deposit in the amount of \$750.00 previously submitted by Claimant.

/s/ Lawrence E. Curfman, III
Lawrence E. Curfman, III,
Public Arbitrator and Chairperson

02/21/1997
Date

/s/ Marvin K. Anderson
Marvin K. Anderson, Public Arbitrator

02/26/1997
Date

/s/ Joseph D. Mueller
Joseph D. Mueller, Industry Arbitrator

02/19/1997
Date

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* Pursuant to Exchange Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.