

NASD REGULATION, INC. AWARD

IN THE MATTER OF ARBITRATION BETWEEN

CHARLES SCHWAB & CO., INC.,

Claimant

Case No. 98-00240

v.

Leonard L. Romans,

Respondent

REPRESENTATION OF PARTIES

Charles Schwab & Co., Inc. ("Claimant") was represented by Stephanie Brand, Charles Schwab & Co., Inc., Houston Galleria Branch, 5100 Westheimer, Suite 100, Houston, TX 77056.

Leonard L. Romans ("Respondent") was not represented and did not appear at the hearing.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about January 16, 1998.

Claimant's Submission Agreement signed on December 29, 1997 by Linda P. Drucker, Vice President and Senior Corporate Counsel.

Respondent did not file a Statement of Answer or Submission Agreement.

HEARING INFORMATION

The hearing was held on September 14, 1998 in Houston, TX, for a total of one hearing session.

CASE SUMMARY

Claimant, Charles Schwab & Co., Inc. ("Claimant"), alleged that the Respondent, Leonard L. Romans ("Respondent"), opened account number 7588-9297 (the "Account") with Schwab. In connection with opening the Account, Respondent executed an e.Schwab Investment Account Application by which Respondent acknowledged that he read, understood and agreed to the terms of an e.Schwab Investment Account Agreement (the "Agreement"). Claimant alleged that on June 7, 1996, checks in the amount of \$20,000.00 and \$10,000.00, were deposited into Respondent's account and that on June 11, 1996, checks in the amount of \$50,000.00 and \$100,000.00 were also deposited into Respondent's account. In addition, Claimant alleged that Respondent placed various trades in his Account through Schwab's computerized trading program on June 7, 10 and 11, 1996. On June 12 and 14, 1996, the checks deposited on June 7 and June 11, 1996 were returned to Schwab because stop payments had been placed on these checks. Claimant further alleged that

despite requests that the Respondent deposit funds to cover the returned checks, Respondent failed to do so. Accordingly, Schwab was forced to liquidate the remaining positions in the Account leaving an unsecured debit balance in the amount of \$52,861.74 in the Account. During the period July 1996 through October 1997, Schwab tendered several demands to Respondent to pay the unsecured debit balance in the Account, plus interest. Claimant alleged that Respondent failed and refused to make such payment to Charles Schwab & Co., Inc.

Respondent did not file an Answer.

RELIEF REQUESTED

Claimant requested an award against Respondent as follows:

- The balance due as a result of the returned checks, various trades and subsequent liquidations in June 1996 in the amount of \$59,724.92;
- Interest in the amount of \$9,135.00 from June 1996 through June 28, 1998;
- Interest in the amount of \$975.00 from June 29, 1998 to September 14, 1998 at the rate of 7.75% (\$12.50 per day);
- Interest until the balance is paid at the rate of 7.75% per annum (\$12.50 per day) as specified in the Agreement;
- Costs as agreed to under the terms of the Agreement; and
- Any other relief as the Arbitrators deem just.

OTHER ISSUES

Arbitrator Walter J. McCoy, Ph.D. did not appear for the hearing. The party present at the hearing, Charles Schwab & Co., Inc. Agreed to proceed with the hearing without filing the vacancy on the panel under Rule 10313 of the Code of Arbitration Procedure.

The party present at the hearing, Charles Schwab & Co., Inc. Agreed that the Award in this matter may be executed in counterpart copies and agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution.

Respondent, Leonard L. Romans did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure ("the Code") and is bound by the determination of the arbitration panel on all issues submitted.

Upon review of the file and the representations made by/on behalf of Claimant, Charles Schwab & Co., Inc., the undersigned arbitrators determined that Respondent, Leonard L. Romans, was properly served with the Statement of Claim and notice of the arbitrators and hearing pursuant to §§ 10310, 10314 and 10315 of the Code. The undersigned arbitrators also determined that the hearing would proceed under Rule § 10318 of the Code.

AWARD

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

1. That Respondent, Leonard L. Romans is liable for and shall pay to Claimant, Charles Schwab & Co., Inc. the sum of \$52,861.74 with simple interest at a rate of 6% from June 13, 1996 until paid in full;
2. That Respondent, Leonard L. Romans is liable for and shall pay to Claimant, Charles Schwab & Co., Inc. The sum of \$2,264.72 for attorneys' fees. In deciding to award attorneys' fees, the arbitrators considered the provisions of the e.Schwab Investment Account Agreement; and
3. That other than forum fees which are addressed below, all claims and relief not specifically granted herein are, and each of them, denied in their entirety and dismissed with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$600.00 hearing session and \$300.00 for each pre-hearing conference, if any. There was one hearing session x \$600.00 = \$600.00 in forum fees. Pursuant to Rule 10205(b) of the Code of Arbitration Procedure ("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 Rule 10205(c) of the Code, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable claim filing fee in the amount of \$500.00 and shall retain as forum fees the hearing session deposit in the amount of \$600.00 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant, Charles Schwab & Co., Inc.

Arbitrators' Signatures

Sherry R. Wetsch, Esquire
Sherry R. Wetsch, Esquire
Public Arbitrator
Chairperson

October 6, 1998

Dolores Martin
Dolores Martin
Industry Arbitrator
Panelist

October 7, 1998