

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

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| In The Matter Of |) | |
| |) | |
| Michel R. Louvain, MD, |) | |
| |) | |
| Claimant, |) | DECISION |
| |) | |
| v. |) | File No. 98NM006 |
| |) | |
| Charles Schwab & Co., Inc., |) | |
| |) | |
| Respondent. |) | |
| |) | |

Representation

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| For Claimant: | Pro Se |
| For Respondent: | Gregory M. Scanlon, Charles Schwab & Co., Inc., San Francisco, CA |

Pleadings

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| Statement of Claim and Submission Agreement, filed on or about: | 07/23/98 |
| Answer and Submission Agreement, filed on or about: | 09/14/98 |
| Claimant's Response to Answer, filed on or about: | 10/20/98 |

Hearing

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

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| Date: | March 11, 1999 |
| No. of Sessions: | 1 |
| Location: | Chicago, IL |

Summary of Issues

The dispute involves the execution of two Cascade Communications call option spreads on January 23, 1997. Michel R. Louvain, MD ("Claimant") alleges that he placed a call option spread order with Charles Schwab & Co., Inc. ("Schwab" or "Respondent") between 8:30 and 9:00 a.m. Claimant further alleges that between approximately 8:30 a.m. and 11:00 a.m. he was repeatedly assured by the same broker at Schwab that the order had not executed. Claimant asserts that based upon Respondent's assurance that the spread order had not executed, he placed two separate orders for a Cascade Communications call option spread and immediately received confirmation that the orders had executed. Claimant asserts that shortly after Respondent confirmed the separate calls, Respondent also confirmed the execution of the earlier spread order. Claimant alleges that Respondent should have confirmed that the spread order had not executed before placing the second option orders and that, if Claimant had known that the first order

executed, he would not have placed the second orders. Claimant seeks cancellation of the second, separate call orders and an award in the amount of \$10,800.14 in compensatory damages, \$15,000 for interest and psychological damages, and \$210.65 for margin interest.

Schwab alleges that Claimant placed a request to cancel the first spread order and that despite knowing that he had not received confirmation that the spread order had canceled, Claimant placed the second, separate Cascade Communications call orders. Schwab states that Cascade Communications experienced fast market condition on the day in question. Schwab further asserts that Claimant is not entitled to damages because he did not mitigate his alleged losses. Schwab requests that the claim be dismissed in its entirety.

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, find that upon receiving confirmation of the two Cascade Communications call option spread positions, Claimant ratified both the purchases by keeping both positions and allowing them to expire worthless. Therefore, Claimant is not entitled to compensation for any losses incurred. No award is rendered for compensatory damages, interest, psychological damages or margin interest.

Forum Fees

Pursuant to Chicago Board Options Exchange, Incorporated ("Exchange") Rule 18.33, the Arbitrators assess forum fees in the total amount of \$500 (\$100 filing fee + \$400 hearing fee) as follows:

1. Schwab is responsible for and shall pay to CBOE the amount of \$250.
2. The Exchange shall retain \$250 of the \$500 previously deposited by Claimant.
3. The Exchange shall issue a refund to Claimant in the amount of \$250.

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| <u>/s/ Stephen J. Nagy</u> | <u>03/24/1999</u> |
| Stephen J. Nagy, Chair & Public Arbitrator | Date |
| <u>/s/ Robert L. Byman</u> | <u>03/25/1999</u> |
| Robert L. Byman, Public Arbitrator | Date |
| <u>/s/ Daniel Baldwin</u> | <u>03/24/1999</u> |
| Daniel Baldwin, Industry Arbitrator | Date |

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* Pursuant to CBOE 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.