

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Nabil A. Jacob

Case No. 99-01864

Name of Respondent

Charles Schwab & Company, Inc.

REPRESENTATION OF PARTIES

For Nabil A. Jacob, ("Jacob"), hereinafter referred to as "Claimant": Frank A. Lightmas, Esq. of Lightmas & Delk, Atlanta, Georgia.

For Charles Schwab & Company, Inc., ("Schwab"), hereinafter referred to as "Respondent": Albert Zecher, Jr., Corporate Attorney, Schwab.

CASE INFORMATION

Statement of Claim filed on or about: April 17, 1999.

Claimant signed the Uniform Submission Agreement: March 10, 1999.

Statement of Answer filed by Respondent on or about: July 1, 1999.

Respondent signed the Uniform Submission Agreement: June 7, 1999.

CASE SUMMARY

Claimant asserted the following: During the last several years when Claimant had a brokerage account with Respondent, maintenance and/or Fed calls were occasionally issued in connection with his account. Because of the volume of trading that Claimant conducted in his account and because of his history with Respondent, Schwab routinely would contact Claimant, via telephone, to request additional funds to cover the maintenance and/or Fed call, and he was consistently given a minimum of one full day and typically was given two days to deposit additional funds into the account, liquidate securities in his account or, occasionally, due to a positive change in market conditions, a deposit of funds was not required. As a result, a consistent and repeatable pattern of doing business with Respondent was established. When a similar situation arose on February 10, 1999, however, Respondent *prematurely and arbitrarily liquidated securities in Claimant's account that resulted in substantial losses to him.*

Claimant alleged, among other allegations, that Respondent was negligent, breached its fiduciary, contractual and other duties to Claimant and violated Georgia common and statutory law.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following: Claimant's claim is without merit. Claimant purchased several volatile securities on February 8, 1999, which by the close of trading on February 9, had decreased in value by approximately \$120,000.00. As a result, the equity level in Claimant's account had dropped to less than 10%, well below Schwab's and the NYSE's minimum margin requirements. Based upon the quick and immediate fall in value of Claimant's purchases, the failure of Claimant to reply to Schwab's telephone calls, and Claimant's prior failure to meet margin calls, Schwab properly liquidated the positions as authorized by the account agreement and well established industry practice.

Further, Respondent asserted Claimant's damage claim is speculative, inflated and Claimant failed to mitigate his loss.

RELIEF REQUESTED

Claimant sought actual damages of approximately \$101,590.70, pre-award and post-award interest, punitive damages and all costs and expenses, including attorney's fees.

Respondent requested that Claimant's claim be denied in its entirety, and that all forum fees and costs of the arbitration be assessed against Claimant.

OTHER ISSUES CONSIDERED AND 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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are denied in their entirety.

Claimant's request for punitive damages is denied.

All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$600.00
Hearing process fee = \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

February 7-9, 2000 Hearing Dates, adjournment by Claimant. Adjournment fee assessed \$562.50 to Claimant and \$562.50 to Respondent.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One Pre-hearing session with a single arbitrator x \$450.00	= \$450.00
Pre-hearing conference: November 15, 1999	1 session
One Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: October 25, 1999	1 session
Two Hearing sessions x \$1,125.00	= \$ 2,250.00
Hearing Date: <u>November 28, 2000</u>	<u>2 sessions</u>
Total Forum Fees	= \$3,825.00

The Panel has assessed \$1,912.50 of the forum fees to Claimant.
The Panel has assessed \$1,912.50 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimant requested additional copies of documents from the file at a cost of \$21.50.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$300.00
Adjournment Fee	= \$562.50
Forum Fees	= \$1,912.50
<u>Administrative Costs</u>	= \$21.50
Total Fees	= \$2,796.50
<u>Less payments</u>	= \$2,009.00
Balance Due NASD Dispute Resolution, Inc.	= \$787.50

Respondent be and hereby is solely liable for:

Member Fees	= \$4,600.00
Adjournment Fee	= \$562.50
Forum Fees	= \$1,912.50
Total Fees	= \$7,075.00
<u>Less payments</u>	= \$5,162.50
Balance Due NASD Dispute Resolution, Inc.	= \$1,912.50

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signatures

_____/s/_____
Sabrina Raquel Scott, Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Dave Wolf, Jr.
Public Arbitrator

Signature Date

_____/s/_____
John W. Hopper, Jr., Esq.
Industry Arbitrator

Signature Date

December 5, 2000

Date of Service (For NASD-DR office use only)

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$300.00
Adjournment Fee	= \$362.50
Forum Fees	= \$1,912.50
<u>Administrative Costs</u>	<u>= \$21.50</u>
Total Fees	= \$2,796.50
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Sabrina Raquel Scott, Esq.
Public Arbitrator, Presiding Chair

December 1, 2000
Signature Date

Dave Wolf, Jr.
Public Arbitrator

Signature Date

John W. Hopper, Jr., Esq.
Industry Arbitrator

Signature Date

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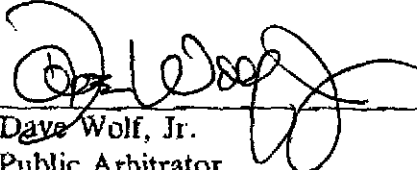
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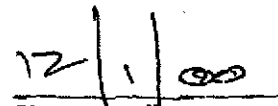
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Sabrina Raquel Scott, Esq.
Public Arbitrator, Presiding Chair



Dave Wolf, Jr.
Public Arbitrator

Signature Date



Signature Date

John W. Hopper, Jr., Esq.
Industry Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

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Sabrina Raquel Scott, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Dave Wolf, Jr.
Public Arbitrator

Signature Date

John W. Hopper, Jr., Esq.
Industry Arbitrator

Signature Date

11-30-00

Date of Service (For NASD-DR office use only)