

**Award**  
**NASD Dispute Resolution, Inc.**

---

In the Matter of the Arbitration Between:  
Charles Schwab & Co., Inc., Claimant vs. Mark Ziegaus and Deanza Ziegaus, Respondents.

Mark Ziegaus and Deanza Ziegaus, Claimants vs. Charles Schwab & Co., Inc., Respondent.

Consolidated Case Numbers: 99-02659 and 99-02698  
California

Hearing Site: San Francisco,

---

**REPRESENTATION OF PARTIES**

Claimant, Charles Schwab & Co., Inc., hereinafter referred to as "Claimant or Schwab": Curt Mueller, Esq., Charles Schwab & Co., Inc., San Francisco, California

Respondents, Mark Ziegaus and Deanza Ziegaus, hereinafter referred to as "Respondents or Mr. and Ms. Ziegaus": Mark Ziegaus, Stockton, California

**CASE INFORMATION**

Statement of Claim filed on or about: June 8, 1999

Claimant, Schwab's Statement of Answer in Response to Counterclaim filed on or about:  
January 5, 2000

Claimant, Schwab, signed the Uniform Submission Agreement: June 8, 1999

Statement of Answer and Counterclaim filed by Respondents, Mark Ziegaus and Deanza Ziegaus, on or about: June 14, 1999

Summary of Issues filed by Mr. and Ms. Ziegaus on or about: August 4, 2000

Respondent, Mark Ziegaus, signed the Uniform Submission Agreement: June 7, 1999

Respondent, Deanza Ziegaus, signed the Uniform Submission Agreement: June 10, 1999

**CASE SUMMARY**

Claimant Schwab alleged that Respondents have failed to pay an unsecured debt with respect to a margin deficit in Respondents' account.

Respondents denied any liability to Schwab with respect to its Statement of Claim. In their Counterclaim, Respondents alleged that they suffered damages because of Schwab's negligent mishandling of Respondents' account.

Schwab denied the allegations of wrongdoing contained in Respondents' Answer and Counterclaim and denied any liability to Respondents.

### **RELIEF REQUESTED**

Claimant Schwab requested an award in its favor as follows:

1. For principal damages in the sum of \$36,220.75;
2. Interest on said principal balance at the rate of 7.75% per annum from and after February 1, 1999, through the present, said interest amounting to \$7.79 per day;
3. For NASD filing costs incurred herein; and
4. For such other and further relief as the Arbitration Panel may deem just and proper.

Respondents requested damages and costs totaling \$132,700.00.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about October 25, 1999, the parties agreed to consolidate the above-referenced matters for hearing and award purposes. Pursuant to Rules 10205 and 10332 of the Code, the Panel ruled that forum fees for the pre-hearing and hearing sessions shall be assessed at \$600.00 per session.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant Schwab the sum of \$36,220.75 in compensatory damages.
2. Respondents are jointly and severally liable for and shall pay to Claimant Schwab interest in the amount of \$4,975.86.
3. All claims with respect to Respondents' Counterclaim are denied.
4. The parties shall each bear their respective costs including attorney's fees.

### **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	= \$1,000.00
Counterclaim 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	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

**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 (1) Pre-hearing session with Panel x \$600.00	= \$600.00
Pre-hearing conference: April 11, 2000 1 session	
One (1) Hearing session x \$600.00	= \$600.00
Hearing Date: August 10, 2000 1 session	
<hr/> Total Forum Fees	= \$1,200.00

1. The Panel has assessed \$600.00 of the forum fees to Schwab.
2. The Panel has assessed \$600.00 of the forum fees to Mr. & Ms. Ziehaus.

**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.

The parties did not incur administrative costs.

**Fee Summary**

1. Claimant, Schwab, be and hereby is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$2,400.00
Forum Fees	= \$ 600.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$4,000.00
<u>Less payments</u>	= \$4,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

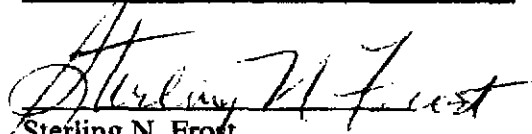
2. Respondents, Mr. & Ms. Ziegaus, be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 300.00
Forum Fees	= \$ 600.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 900.00
<u>Less payments</u>	= \$1,425.00
Balance (Refund)	= \$ 525.00

Referencing case number 99-02698, the Panel noted that Schwab has paid the member surcharge in the amount of \$1,500.00 and that Schwab shall pay processing fees in the amount of \$200.00 pursuant to Rule 10333 of the Code.

All balances are due to NASD Dispute Resolution, Inc. and are payable within 30 days of the service date of this Award.

**Concurring Arbitrators' Signatures**

  
Sterling N. Frost  
Public Arbitrator, Presiding Chair

8/24/00  
Signature Date

\_\_\_\_\_  
Peter John Wercinski  
Public Arbitrator

\_\_\_\_\_  
Signature Date

**Fee Summary**

1. Claimant, Schwab, be and hereby is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$2,400.00
Forum Fees	= \$ 600.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$4,000.00
<u>Less payments</u>	= \$4,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

2. Respondents, Mr. & Ms. Ziegaus, be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 300.00
Forum Fees	= \$ 600.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 900.00
<u>Less payments</u>	= \$1,425.00
Balance (Refund)	= \$ 525.00


Referencing case number 99-02698, the Panel noted that Schwab has paid the member surcharge in the amount of \$1,500.00 and that Schwab shall pay processing fees in the amount of \$200.00 pursuant to Rule 10333 of the Code.

All balances are due to NASD Dispute Resolution, Inc. and are payable within 30 days of the service date of this Award.

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Sterling N. Frost  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Peter John Wercinski  
Public Arbitrator


8/29/00  
\_\_\_\_\_  
Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 99-02659 and 99-02698

Award Page 5 of 5

---



Donald S. Duerson

Industry Arbitrator

Date Served:

SEP 05 2000

---

Date of Service (For NASD office use only)

8-24-00

Signature Date