

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Jerimiah J. Hofer and La Thi Hofer

and

99-04152
Scottsdale, Arizona

Name of Respondent

Charles Schwab & Company, Inc.

REPRESENTATION OF PARTIES

Jerimiah J. Hofer and La Thi Hofer ("**Claimants**") were represented by George R. Brown, Esq., Whitehall, Linden, Grynkewich & Halladay, Tucson, Arizona.

Charles Schwab & Company, Inc. ("**Respondent**") was represented by Amir Tadjedin, Esq., Charles Schwab & Company, Inc., San Francisco, California.

CASE INFORMATION

The Statement of Claim was filed on or about August 31, 1999. Claimants' Opposition to Respondent's Motion to Dismiss was filed on or about January 4, 2000. Claimants' Amended Statement of Claim was filed on or about May 31, 2000. Claimants' Response to Schwab's Motion to Dismiss was filed on or about June 19, 2000. Submission Agreement of Claimants Jerimiah J. Hofer and La Thi Hofer was signed on August 20, 1999.

Motion to Dismiss and Statement of Answer was filed by Respondent Charles Schwab & Company, Inc. on or about December 6, 1999. Respondent Charles Schwab & Company, Inc.'s Motion to Dismiss was filed on or about June 2, 2000. Statement of Answer was filed on or about Submission Agreement of Respondent Charles Schwab & Company, Inc. was signed by Albert Zecher, Jr.

CASE SUMMARY

Claimants alleged that they are extremely inexperienced investors, and should never have been involved in the kinds of investments at issue. It was also alleged that given their new account information and income tax returns, it was not appropriate that they sell short 400 shares of Amazon at an average price of \$233.90.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that every trade at issue in the Statement of Claim was unsolicited, and made without any advice or recommendation by respondent. It was also stated that respondent exercised no control over the investments that Claimants made. Therefore, Respondent could not have "churned" Claimants' account. With respect to the allegation of negligence, Respondent had no duty to supervise Claimants' account for the suitability or frequency of their transactions, and therefore the claim for negligence fails as a matter of law.

RELIEF REQUESTED

In the Statement of Claim and the Amended Statement of Claim, Claimants requested an award of compensatory damages in the amount of \$117,000.00, punitive damages in the amount of \$75,000.00, their reasonable attorneys' fees and costs, and such further relief deemed appropriate by the NASD.

Respondent requested that this matter be dismissed in its entirety and be awarded all costs associated with defending this matter.

OTHER ISSUES CONSIDERED & DECIDED

By letter dated June 28, 2000, the parties were advised of the Arbitration Panel's decision to deny Respondent Charles Schwab & Company, Inc.'s Motion to Dismiss.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

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

1. There is no award of damages.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys 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 = \$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(s) is(are) Charles Schwab & Company, Inc.

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

Forum Fees and Assessments

The Arbitration 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(s) with Panel x \$1,125.00 = \$1,125.00
Pre-hearing conference(s): Date 1 session

Two (2) Hearing sessions x \$1,125.00 = \$2,250.00
Hearing Date(s): September 18, 2000 2 sessions

Total Forum Fees = \$3,375.00

The Arbitration Panel has assessed \$3,375.00 of the forum fees to Jerimiah J. Hofer and La Thi Hofer.

Fee Summary

Claimants, Jerimiah J. Hofer and La Thi Hofer, shall be and hereby is liable for:

Initial Filing Fee = \$ 300.00

<u>Forum Fees</u>	= \$3,375.00
Total Fees	= \$3,675.00
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

Respondent, Charles Schwab & Company, Inc., shall be and hereby is liable for:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$4,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

/s/ Willy Nordwind, Jr.

Willy Nordwind, Jr., Esq.

Public Arbitrator, Presiding Chair

October 2, 2000

/s/ John V. Marian

John V. Marian

Public Arbitrator

September 29, 2000

/s/ Edward F. Altman, Jr.

Edward F. Altman, Jr.

Industry Arbitrator

September 29, 2000

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<u>Forum Fees</u>	= \$3,375.00
Total Fees	= \$3,675.00
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

Respondent, Charles Schwab & Company, Inc., shall be and hereby is liable for:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$4,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

 Willy Nordwind, Jr., Esq.
 Public Arbitrator, Presiding Chair



 John V. Marian
 Public Arbitrator

 Edward F. Altman, Jr.
 Industry Arbitrator

 9-29-00

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<u>Forum Fees</u>	= \$3,375.00
<u>Total Fees</u>	= \$3,675.00
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

Respondent, Charles Schwab & Company, Inc., shall be and hereby is liable for:

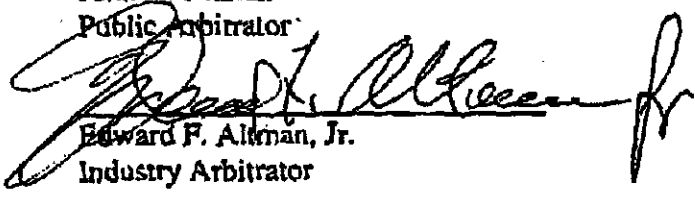
Member Fees	= \$4,600.00
<u>Forum Fees</u>	= \$ 0.00
<u>Total Fees</u>	= \$4,600.00
<u>Less payments</u>	= \$4,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

 Willy Nordwind, Jr., Esq.
 Public Arbitrator, Presiding Chair

 John V. Marian
 Public Arbitrator


 Edward F. Altman, Jr.
 Industry Arbitrator

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Forum Fees

\$175.00

Total Fees

\$175.00

Less Payments

\$1425.00

Balance Due NASD Dispute Resolution, Inc.

\$2250.00

Respondent, Charles Schwab & Company, Inc., shall be and hereby is liable for

Member Fees

\$2600.00

Forum Fees

\$175.00

Total Fees

\$2600.00

Less Payments

\$2600.00

Balance Due NASD Dispute Resolution, Inc.

\$600.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

10/2/88

Walter J. Nordwind, Jr., Esq.
 Public Arbitrator, Presiding Chair

Sam V. Marian
 Public Arbitrator

Edward J. Altman, Jr.
 Public Arbitrator