

C/M

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
Gregory Spencer.)
)
) Claimant.)
) Case #87-01282
vs.) Award
)
Charles Schwab and Co., Inc.,)
)
Respondent.)
)

Heard before the members of the Arbitration Panel:

John P. Cullem, Esq.
Sam Giunta, Esq.
Joseph G. Lananna

CASE SUMMARY

This claim was filed with the NASD, Inc. on July 15, 1987. The hearing was conducted in Tampa with a total of six sessions. Claimant, Gregory Spencer ("Spencer"), alleged that Respondent, Charles Schwab & Co., Inc. ("Schwab"), was liable for negligence, breach of contract, breach of fiduciary duty and violation of Section 517 of the Florida Statutes in misrepresenting to him the length of time he had to cover his margin calls. Schwab claimed it did not know Spencer's financial status or ability to meet the margin calls and liquidated his positions to prevent further loss.

RELIEF REQUESTED

Claimant, Spencer, requested damages of \$131,513.00 plus interest, attorney's fees, punitive damages, and other costs. Respondent requested dismissal of the claim, attorney's fees and costs.

AWARD

On April 20th and 21st, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on August 24, 1987, and by Respondent on November 24, 1987. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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, Inc.
2. Respondent, Schwab, shall not be and hereby is not liable to the Claimant and, therefore, all claims against it shall be and hereby are dismissed.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, Claimant, Spencer, shall be and hereby is assessed forum fees in the amount of Four Thousand Five Hundred and 00/100 (\$4,500.00) Dollars (six sessions x \$750.00). The National Association of Securities Dealers, Inc. shall retain the Seven Hundred Fifty and 00/100 (\$750.00) Dollar filing fee previously deposited by the Claimant to satisfy a portion of this assessment.
4. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding (including attorneys' fees).

OTHER ISSUES

NONE

ARBITRATORS CONCURRING

John P. Cullem
Sam Giunta
Joseph G. Lananna

Dated: June 12, 1989