

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 08-03904

Kathleen Pomeroy
The Pomeroy Family Trust
The Pomeroy Bypass Trust
The Marital Deduction Trust

Name of the Respondent

Hearing Site: San Francisco, California

Charles Schwab & Co., Inc.

Nature of the Dispute: Customers vs. Member

REPRESENTATION OF PARTIES

Claimants, Kathleen Pomeroy ("Pomeroy"), The Pomeroy Family Trust ("Family Trust"), The Pomeroy Bypass Trust ("Bypass Trust"), and The Marital Deduction Trust ("Marital Trust"), hereinafter collectively referred to as "Claimants": Samuel B. Edwards, Esq., Shepherd Smith Edwards & Kantas, Houston, Texas.

Respondent, Charles Schwab & Co., Inc., hereinafter referred to as "Respondent": Philip A. McLeod, Esq., Law Offices of Keesal, Young & Logan, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on: October 20, 2008

Claimants signed the Submission Agreement: October 14, 2008

Statement of Answer filed by Respondent on or about: December 18, 2008

Respondent signed the Submission Agreement: November 3, 2008

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of contract and warranties; 2) promissory estoppel; 3) violation of state securities statutes; 4) violation of state fraud statutes; 5) violation of the California consumer legal remedies act; 6) violation of elder abuse statutes; 7) intentional misrepresentation of material facts; 8) unjust enrichment; 9) breach of fiduciary duty; and 10) breach of duty of good faith and fair dealing. Claimants' claims involve the management of a trust account and investment in the Schwab California Tax-Free YieldPlus fund.

FINRA Dispute Resolution
Arbitration No. 08-03904
Award Page 2 of 4

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested damages between \$500,000.00-\$1,000,000.00 which include:

1. Statutory damages;
2. Punitive damages;
3. Pre-award and pre-judgment interest at the highest legal rate on all sums invested from the date deposited until the date of the award or judgment and until such sums are paid;
4. All costs of proceedings including collection and legal fees; and
5. Any other relief which the Panel deems just and equitable.

Respondent requested:

1. Dismissal of all claims in their entirety with prejudice;
2. Costs; and
3. All other relief as provided by law.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

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. Respondent is liable to and shall pay Claimants compensatory damages in the amount of \$604,094.00.
2. Respondent is liable to and shall pay Claimants interest on the award of \$604,094.00 at the rate of 7% between April 1, 2008, and April 1, 2010.
3. Respondent is liable to and shall pay Claimants attorneys' fees in the amount of \$150,000.00 pursuant to the California Welfare and Institutions Code § 15657.5.
4. Respondent is liable to and shall pay Claimants \$14,850.00 in costs.
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FINRA Dispute Resolution
 Arbitration No. 08-03904
 Award Page 3 of 4

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial claim filing fee = \$1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party Charles Schwab & Co., Inc., is assessed the following:

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

September 1-5, 2009, adjournment by parties = waived

Hearing Session Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: July 24, 2009 1 session	

One (1) Pre-hearing session with Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: March 10, 2009 1 session	

Five (5) Hearing sessions @ \$1,200.00/session	= \$6,000.00
Hearing Dates: March 30, 2010 2 sessions	
March 31, 2010 2 sessions	
April 1, 2010 1 session	

Total Hearing Session Fees = \$7,650.00

1. The Panel has assessed \$7,650.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

FINRA Dispute Resolution
Arbitration No. 08-03904
Award Page 4 of 4

ARBITRATION PANEL

Jane Bradley	-	Public Arbitrator, Presiding Chairperson
Mary Margaret Bush	-	Public Arbitrator
William A. Husa	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Jane Bradley
Public Arbitrator, Presiding Chairperson

4-13-10

Signature Date

Mary Margaret Bush
Public Arbitrator

Signature Date

William A. Husa
Non-Public Arbitrator

Signature Date

April 20, 2010
Date of Service (For FINRA Dispute Resolution use only)

FINRA Dispute Resolution
Arbitration No. 08-03904
Award Page 4 of 4

ARBITRATION PANEL

Jane Bradley	-	Public Arbitrator, Presiding Chairperson
Mary Margaret Bush	-	Public Arbitrator
William A. Husa	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Jane Bradley
Public Arbitrator, Presiding Chairperson

Signature Date



Mary Margaret Bush
Public Arbitrator

4/26/10

Signature Date

William A. Husa
Non-Public Arbitrator

Signature Date

April 20, 2010

Date of Service (For FINRA Dispute Resolution use only)

FINRA Dispute Resolution
Arbitration No. 08-03904
Award Page 4 of 4

ARBITRATION PANEL

Jane Bradley	-	Public Arbitrator, Presiding Chairperson
Mary Margaret Bush	-	Public Arbitrator
William A. Husa	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

 Jane Bradley
 Public Arbitrator, Presiding Chairperson

Signature Date

 Mary Margaret Bush
 Public Arbitrator

Signature Date

William A. Husa

 William A. Husa
 Non-Public Arbitrator

APRIL 14, 2010

 Signature Date

April 20, 2010

 Date of Service (For FINRA Dispute Resolution use only)