Northstar Financi	al Advisors Inc. v. Schwab Investm	ents et al			Doc.
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9	U	NITED STATES	DISTRICT COURT		
10	NOI	RTHERN DISTRI	CT OF CALIFORN	IA	
11					
12	NORTHSTAR FINANCIAL A	DVISORS,	Case No. C-08-4119	9 SI	
13	INC., on Behalf of Itself and al Similarly Situated,	I Others	CLASS ACTION		
14		laintiff,	STIPULATION A	ND [PROPOSED] OR	DER
15	v. SCHWAB INVESTMENTS, C		CHARLES SCHW	THOUT PREJUDICE AB & CO., INC. AND	
16	SCHWAB & CO., INC., CHAI	RLES ,	SCHWAB TOTAL NUNC PRO TUNC	L BOND MARKET FU	ND
17	SCHWAB INVESTMENT MA INC., and SCHWAB TOTAL F MARKET FUND,				
18	E	Defendants.			
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28	[C-08-4119 SI] STIPULATION PREJUDICE CHARLES SCHV FUND <i>NUNC PRO TUNC</i>	N AND [PROPOSI WAB & CO., INC.	ED] ORDER DISMISS AND SCHWAB TOT	SING WITHOUT TAL BOND MARKET	
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Plaintiff Northstar Financial Advisors, Inc. ("Northstar") and defendants Schwab Investments, Charles Schwab & Co., Inc., Charles Schwab Investment Management, Inc., and Schwab Total Bond Market Fund ("Defendants"), by and through their counsel, hereby jointly submit a stipulated request for an order dismissing, without prejudice, Charles Schwab & Co., Inc. and the Schwab Total Bond Market Fund.

RECITALS

WHEREAS, the above-captioned action Northstar Financial Advisors v. Schwab Investments, et al., No. C-08-4119 SI was filed on August 28, 2008;

WHEREAS, the initial complaint named as defendants Schwab Investments, Charles Schwab & Co., Inc., Charles Schwab Investment Management, Inc., and Schwab Total Bond Market Fund;

WHEREAS, on February 19, 2009, this Court granted in part and denied in part the
defendants' motion to dismiss and granted leave to file an amended complaint by no later than
March 2, 2009 ("Dismissal/Amend Order");

WHEREAS, on March 2, 2009, Northstar filed its First Amended Complaint;

WHEREAS, the First Amended Complaint no longer asserts claims against Charles Schwab

& Co., Inc., or the Schwab Total Bond Market Fund;

WHEREAS, in making their assessments as to which defendants should remain in the case
following consideration of the Court's Dismissal/Amend Order, Northstar did not have adequate
time to dismiss without prejudice Charles Schwab & Co., Inc. and Schwab Total Bond Fund prior to
filing its Amended Complaint on March 2, 2009;

WHEREAS, in order to avoid confusion as to which defendants are still in the case,
Northstar removed Charles Schwab & Co., Inc. and Schwab Total Bond Fund as defendants from
both the caption and the body of the Amended Complaint; and

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28 [C-08-4119 SI] STIPULATION AND [PROPOSED] ORDER DISMISSING WITHOUT 28 PREJUDICE CHARLES SCHWAB & CO., INC. AND SCHWAB TOTAL BOND MARKET FUND *NUNC PRO TUNC*

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1	WH	IEREAS, Northstar now seeks an order nunc pro tur	nc approving the dismissal without		
2	prejudice of both Charles Schwab & Co., Inc. and Schwab Total Bond Fund, effective as of March 2,				
3	2009;				
4	WH	IEREAS, no consideration was proffered by Defend	ants nor received by Northstar for the		
5	dismissal of Charles Schwab & Co., Inc. and Schwab Total Bond Fund; and				
6	WHEREAS, Northstar has not yet filed a motion for class certification;				
7	STIPULATION				
8	IT IS HEREBY STIPULATED, subject to the Court's approval, by and between counsel				
9	for Northstar and Defendants:				
10	1.	The previously named defendants, Charles Schw	vab & Co., Inc. and the Schwab Total		
11		Bond Market Fund shall be dismissed from the in	nstant action, without prejudice.		
12	2.	The dismissal without prejudice of Charles Schw	vab & Co., Inc. and the Schwab Total		
13	Bond Market Fund shall be applied <i>nunc pro tunc</i> to precede the filing of the First				
14	Amended Complaint on March 2, 2009.				
15	3.	3. Subject to Court approval, the notice provisions of Federal Rule of Procedure 23(e)			
16	need not and shall not apply to this dismissal.				
17	4.	The dismissal is without costs or fees to any part	The dismissal is without costs or fees to any party.		
18	Dated: Mare	rch 4, 2009 WOLF PO	PPER LLP		
19		By: /s Robe	rt C. Finkel		
20			ROBERT C. FINKEL (admitted <i>pro hac vice</i>)		
21		845 Third A			
22		New York, Telephone:	(212) 759-4600		
23		Facsimile:	(212) 486-2093		
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26					
27		SI] STIPULATION AND [PROPOSED] ORDER I			
28	PREJUDICE	CE CHARLES SCHWAB & CO., INC. AND SCHW NC PRO TUNC			

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23	Charles Schwab Investment Management, Inc., and Schwab Total Bond Market Fund
24	inc., and Schwab Total Donu Market Fund
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27	[C-08-4119 SI] STIPULATION AND [PROPOSED] ORDER DISMISSING WITHOUT
28	PREJUDICE CHARLES SCHWAB & CO., INC. AND SCHWAB TOTAL BOND MARKET FUND <i>NUNC PRO TUNC</i>

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1	PURSUANT TO ST	IPULATION, IT	IS SO ORDERED.	
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3	Dated:		Juran	_ Xloon
4			HONORABLE SU	
5			UNITED STATES	DISTRICT JUDGE
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1	I, Christopher T. Heffelfinger, am the ECF user whose ID and password are being used to
2	file this Stipulation and [Proposed] Order Dismissing Without Prejudice Charles Schwab & Co., Inc.
3	and Schwab Total Bond Market Fund Nunc Pro Tunc. In compliance with General Order 45, X.B., I
4	hereby attest that Robert C. Finkel, co-counsel for Plaintiff Northstar, and Dorothy L Fernandez,
5	counsel for defendants, have concurred in this filing.
6	o/ Christophen T. Hoffelfingen
7	<u>s/ Christopher T. Heffelfinger</u>
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27 28	[C-08-4119 SI] STIPULATION AND [PROPOSED] ORDER DISMISSING WITHOUT PREJUDICE CHARLES SCHWAB & CO., INC. AND SCHWAB TOTAL BOND MARKET FUND <i>NUNC PRO TUNC</i>
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