

1 MELISSA A. FORTUNATO (#319767)
fortunato@bespc.com

2 BRAGAR EAGEL & SQUIRE, P.C.
580 California Street, Suite 1200
3 San Francisco, CA 94104
Telephone: (415) 568-2124
4 Facsimile: (212) 486-0462

5 LAWRENCE P. EAGEL (*pro hac vice*)
eagel@bespc.com

6 BRAGAR EAGEL & SQUIRE, P.C.
810 Seventh Avenue, Suite 620
7 New York, New York 10019
Telephone: (212) 308-5858
8 Facsimile: (212) 486-0462

9 LIONEL Z. GLANCY (#134180)
lglancy@glancylaw.com

10 JONATHAN ROTTER (#234137)
jrotter@glancylaw.com

11 GARTH SPENCER (#335424)
gspencer@glancylaw.com

12 GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
13 Los Angeles, California 90067
Telephone: (310) 201-9150
14 Facsimile: (310) 201-9160

15 *Attorneys for Lead Plaintiff Robert Wolfson and*
Co-Lead Counsel for the Class

16
17 *[Additional Counsel on Signature Block]*

18 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
19 **SAN FRANCISCO DIVISION**

20 ROBERT CRAGO, Individually and on
Behalf of All Others Similarly Situated,

21 Plaintiff,

22 v.

23 CHARLES SCHWAB & CO., INC., and THE
24 CHARLES SCHWAB CORPORATION,

25 Defendants.

Case No. 3:16-cv-03938-RS

CLASS ACTION

**NOTICE OF MOTION AND
PLAINTIFFS' RENEWED MOTION
FOR CLASS CERTIFICATION; AND
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: December 1, 2022

Time: 1:30 pm

Crtrm.: 3, 17th Floor

Honorable Richard G. Seeborg

28

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that, on December 1, 2022 at 1:30 p.m., before the Honorable
3 Richard G. Seeborg, in Courtroom 3, 17th Floor, located at the Phillip Burton Federal Building &
4 United States Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, Lead Plaintiff
5 Robert Wolfson (“Wolfson”) and named plaintiff K. Scott Posson (“Posson” and, together,
6 “Plaintiffs”) will move under Fed. R. Civ. P. 23(a), 23(b)(3), 23(c)(4) and 23(g), for an Order:

7 1. Certifying the following Class:

8 All clients of Charles Schwab & Co., Inc. or The Charles Schwab Corporation
9 (together, “Schwab”) between July 13, 2011 and December 31, 2014 who
10 placed one or more non-directed equity orders during the Class Period that
11 were routed to UBS Securities, LLC (“UBS”) by Schwab pursuant to the
Equities Order Handling Agreement. Excluded from the Class are the officers,
directors, and employees of Schwab.

12 With respect to the following issues:

- 13 a) Whether Schwab omitted to disclose material facts and/or misrepresented
14 material facts regarding its receipt of money from UBS in exchange for
15 routing Schwab customer orders to UBS, and/or regarding Schwab’s
compliance with the duty of best execution.
- 16 b) Whether Schwab engaged in a plan, scheme, conspiracy, and course of
17 conduct, whereby they employed devices, schemes, and artifices to defraud
in connection with the purchase and sale of securities (the “Scheme”).
- 18 c) Whether Schwab knowingly or recklessly (i) omitted and/or misrepresented
19 material facts and/or (ii) committed a deceptive or manipulative act in
furtherance of the Scheme.

20 2. Appointing Plaintiffs Wolfson and Posson as Class Representatives;

21 3. Appointing Lead Counsel Glancy Prongay & Murray LLP and Bragar Eigel &
22 Squire, P.C., and counsel for Plaintiff Posson, Levi & Korsinsky, LLP, as Class
23 Counsel; and

24 4. Granting such other and further relief the Court may deem just and proper.

25 Class certification, the appointment of Plaintiffs as Class Representatives, and the
26 appointment of Class Counsel are proper, where, as here, the Class is so numerous that joinder is
27 impracticable, common questions of law and fact predominate regarding the issues to be certified,
28

1 Plaintiffs' claims are typical of the Class's claims, Plaintiffs and their counsel will fairly and
2 adequately represent the Class, and a class action is superior to individual actions.

3 This Motion is made pursuant to the Court's August 29, 2022 Minute Entry Order (ECF No.
4 201) and the parties' September 8, 2022 Stipulated Briefing Schedule For Renewed Motion For
5 Class Certification And Motion To Compel Arbitration (ECF No. 202). This Motion is based on the
6 Memorandum of Points and Authorities below, the pleadings and other filings in this action, such
7 further argument as the Court may allow at the hearing on this motion, and any other evidence and
8 argument that may be presented to the Court.

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