

**N.A.S.D. AWARD**

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

William Manning.

NASD Arbitration  
No. 93-01059

v.

Name of Respondent

Frank Baumgartner

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**REPRESENTATION**

For Claimant: William Manning, Eugene, Oregon.

For Respondent: Thomas C. Sand, Esq., Miller, Nash, Wiener, Hager & Carlsen, Portland,  
Oregon.

**CASE INFORMATION**

Statement of Claim filed: March 19, 1993

Claimant's Submission Agreement signed: March 12, 1993

Statement of Answer filed: June 10, 1993

Respondent's Submission Agreement signed: June 8, 1993

**HEARING INFORMATION**

Hearing Dates / Sessions: January 12, 1993 / 3 sessions

Hearing Location: Portland, Oregon

## **CASE SUMMARY**

Claimant alleged account errors, transferring covered call option trades between his personal account and his pension account without authorization, and solicitation of securities sales in a state in which the broker was not licensed.

Respondent asserted that certain trades made in Claimant's pension account had been erroneously placed in that account because of clerical errors and were then moved to the personal account. Respondent also asserted that covered call trades had to be made out of the pension account because of Claimant's failure to provide a copy of the pension plan.

## **RELIEF REQUESTED**

Claimant requested damages of \$29,271.30, including punitive damages, costs and expenses of arbitration.

Respondent requested dismissal of all claims.

## **OTHER ISSUES CONSIDERED AND DECIDED**

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 originals remain on file with the National Association of Securities Dealers (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. All claims, including claims for punitive damages, brought by Claimant are dismissed in their entirety.
2. The parties shall each bear their respective costs, including attorney's fees.

## FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$100 non-refundable filing fee, but shall refund the \$400 hearing session fee previously deposited by Claimant.

No forum-fees are assessed.

## ARBITRATORS

### Name

Martin Henner

Lee Smith

Roger Tilbury

### Public / Industry

Public Arbitrator

Industry Arbitrator

Public Arbitrator

### Concurring Arbitrators' Signatures



Martin Henner

Lee Smith

Roger Tilbury

Served: 03/01/94

Date of Decision: \_\_\_\_\_