

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant**

Claus Mueller

NASD Arbitration  
No.94-01234

**Name of Respondent**

Shearson Lehman Brothers  
Randall Buchanan

---

**REPRESENTATION**

For Claimant: Roy G. Brewer, Esq., Seattle, Washington

For Respondent: John Bevilacqua, Esq., Smith Barney Inc., New York, New York

**CASE INFORMATION**

Statement of Claim filed: March 31, 1994

Claimant's Submission Agreement signed: March 30, 1994

Joint Statement of Answer filed by Respondents: September 14, 1994

Respondents' Submission Agreements signed:

Shearson Lehman: September 12, 1994

Randall Buchanan: September 20, 1994

**HEARING INFORMATION**

The evidentiary hearing was held in Seattle, Washington, as follows:

March 29, 1996	-	2 sessions
March 30, 1996	-	1 session

### **CASE SUMMARY**

Claimant alleged churning, lack of suitability, improper use of margin, breach of fiduciary duty and failure to disclose with respect to Claimant's investments in common stocks.

Respondents denied the allegations of the claim, and asserted that the trading in the account was consistent with Claimant's stated objectives and that all trades were discussed with Claimant in advance and were authorized by Claimant.

### **RELIEF REQUESTED**

Claimant requested damages of more than \$100,000 plus attorney's fees and costs of arbitration.

Respondents requested dismissal of all claims.

### **OTHER ISSUES CONSIDERED AND DECIDED**

At hearing, Claimant withdrew any claim based on churning. At the conclusion of Claimant's case, Respondents moved for dismissal based on applicable statutes of limitation, and Sections 15 and 12 (d) of the Code of Arbitration Procedure. The panel determined to defer ruling on the motions until the issuance of this award.

The parties have agreed that the Award in this matter may be executed in either 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 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 asserted by Claimant are dismissed in their entirety.
2. The parties shall 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 \$150 non-refundable filing fee paid by Claimant.

All forum fees are assessed to Claimant:


3 hearing sessions @ \$500/session	\$1500
Credit for deposit	<del>\$(500)</del>
Balance due	\$1000

Fees are payable to the NASD, Inc.

**ARBITRATORS**

<u>Name</u>	<u>Public / Industry</u>
Frederic E. Dorkin	Public
Prudence W. Baldwin	Public
Porter R. Taylor, Jr.	Industry

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Frederic E. Dorkin

\_\_\_\_\_  
Prudence W. Baldwin

\_\_\_\_\_  
Porter R. Taylor

Dated: June 17, 1996

Date Served: June 24, 1996

All forum fees are assessed to Claimant:

3 hearing sessions @ \$500/session	\$1500
Credit for deposit	<del>\$(500)</del>
Balance due	\$1000

Fees are payable to the NASD, Inc.

**ARBITRATORS**

<u>Name</u>	<u>Public / Industry</u>
Frederic E. Dorkin	Public
Prudence W. Baldwin	Public
Porter R. Taylor, Jr.	Industry

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Frederic E. Dorkin

Prudence W. Baldwin  
Prudence W. Baldwin

\_\_\_\_\_  
Porter R. Taylor

Dated: 13 June 1996

Dated: June 24, 1996

All forum fees are assessed to Claimant:

3 hearing sessions @ \$500/session	\$1500
Credit for deposit	<u>\$ (500)</u>
Balance due	\$1000

Fees are payable to the NASD, Inc.

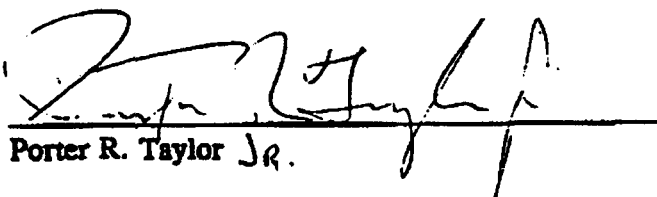
**ARBITRATORS**

<u>Name</u>	<u>Public / Industry</u>
Frederic E. Dorkin	Public
Prudence W. Baldwin	Public
Porter R. Taylor, Jr.	Industry

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Frederic E. Dorkin

\_\_\_\_\_  
Prudence W. Baldwin

  
\_\_\_\_\_  
Porter R. Taylor Jr.

Dated: 6 | 19 | 96  
Dated: June 24, 1996