

AWARD

**NASD Regulation, Inc.,
Office of Dispute Resolution**

In the Matter of the Arbitration Between

Alex Weber
Violet Weber

Claimant(s)

NASD Regulation, Inc.
No. 96-02060

v.

Smith Barney, Inc.
Brad Backes

Respondent(s)

REPRESENTATION OF PARTIES

For Claimants: Charles S. Ferguson, Esq., Seattle, Washington

For Respondents: Eric D. Lansverk, Esq., Hillis Clark Martin & Peterson
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: May 13, 1996

Claimant's Submission Agreement signed: May 7, 1996

Joint Statement of Answer filed: June 24, 1996

Respondents' Submission Agreements signed:

Smith Barney: June 5, 1996

Brad Backes: June 6, 1996

HEARING INFORMATION

The evidentiary hearing was held in Seattle, Washington, on March 4, 1997, and lasted 2 sessions.

CASE SUMMARY

Claimants alleged Respondents failed to execute an open order to sell their shares of Price/Costco common stock if and when the shares fell below \$16 per share, but sold the shares at a lower price, causing Claimants to suffer approximately double the amount of loss they had told Respondents they were willing to bear. Claimants also alleged Respondents refused to reverse the trade.

Respondents denied the allegations of the Claim, and states that Claimant Alex Weber was a sophisticated investor who chose to pursue an aggressive investment strategy, and continued to buy and hold Price/Costco shares as they declined by over 50% in value. Respondents denied that Claimants placed an open limit sell order at \$16 per share, because Claimants would not receive the usual deep commission discount. Instead, Respondent Backes was given time and price discretion to sell the shares.

RELIEF REQUESTED

Claimant requested damages of \$10,600 plus 12% interest from June 30, 1995, to date of Award, costs of arbitration and attorney's fees.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed to receive copies of the Award while the originals remain on file with NASDR.

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. Respondents are jointly and severally liable for, and shall pay to Claimants, the sum of \$10,600 plus interest in the sum of \$1,908.00.
2. The parties shall each bear their respective costs of arbitration, including attorney's fees.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASD shall retain the \$100 non-refundable filing fee paid by Claimants, but shall refund the \$400 hearing session deposit.

Respondents are jointly and severally assessed \$800 as forum fees for 2 sessions, payable to the NASDR, Inc.



Frederick E. Dorkin
Public Arbitrator, Presiding Chair

Imants J. Leskinovitch
Public Arbitrator

David O. von Wolfferdorff
Industry Arbitrator

Dated:

Date Served: 04/17/97

1. Respondents are jointly and severally liable for, and shall pay to Claimants, the sum of \$10,600 plus interest in the sum of \$1,908.00.
2. The parties shall each bear their respective costs of arbitration, including attorney's fees.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASD shall retain the \$100 non-refundable filing fee paid by Claimants, but shall refund the \$400 hearing session deposit.

Respondents are jointly and severally assessed \$800 as forum fees for 2 sessions, payable to the NASDR, Inc.

Frederick F. Dorkin
Public Arbitrator, Presiding Chair



Imants J. Leskinovitch
Public Arbitrator

David O. von Wolfferdorff
Industry Arbitrator

Dated:

Date Served: 04/17/97

1. Respondents are jointly and severally liable for, and shall pay to Claimants, the sum of \$10,600 plus interest in the sum of \$1,908.00.
2. The parties shall each bear their respective costs of arbitration, including attorney's fees.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASD shall retain the \$100 non-refundable filing fee paid by Claimants, but shall refund the \$400 hearing session deposit.

Respondents are jointly and severally assessed \$800 as forum fees for 2 sessions, payable to the NASDR, Inc.

Frederick F. Dorkin
Public Arbitrator, Presiding Chair

Imants J. Leskinovitch
Public Arbitrator

David O. von Wolfferdorff
Industry Arbitrator

4-8-97

Dated: 4-8-97

Date Served: 04/17/97