

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

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

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In the Matter of the Arbitration Between

Name of Claimants

Jose & Linda Marquez

96-05132

Name of Respondents

Stratton Oakmont, Inc.  
Stephen Buxton

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**REPRESENTATION OF PARTIES**

For Claimant: Jose Marquez represented himself.

For Respondents: He did not make an appearance.

**CASE INFORMATION**

Claimants' Statement of Claim was filed on or about November 14, 1996.

Claimants' Submission Agreement was signed on October 9, 1996.

**HEARING INFORMATION**

A pre-hearing conference was held on: February 2, 1998 one session.

The hearing was held in San Francisco, California on: June 5, 1998 one session.

**CASE SUMMARY**

Claimants allege that the Respondent engaged in a systematic churning of his account for the sole purpose of generating commissions and without regard to Claimants' investment objectives. Additionally, the Claimants allege that the Respondent failed to disclose material facts regarding the investments and failed to consider the volatility of the investments relative to the Claimants' risk tolerance. Further, the Claimants allege that the Respondent's conduct constitute fraud, breach of fiduciary duty, intentional and negligent misrepresentation, and negligence.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$100,000 plus costs.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitrator has determined that Respondent Stephen Buxton has been properly served with the Statement of Claim pursuant to §10302 and §10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Stephen Buxton had received due notice of the hearing as required under §10315 of the Code and that arbitration of the matter would proceed pursuant to §10318 of the Code.

The Claimants agreed to receive conformed copies of the award while the original remains on file with NASD Regulation, Inc., Office of Dispute Resolution.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant is awarded and Respondent Stephen Buxton shall pay to Claimant the sum of \$100,287.75.

### **FORUM FEES**

Forum fees are calculated at the rate of \$500 per hearing session. There was 1 pre-hearing conference x \$500 plus 1 hearing session x \$500 = \$1,000 in forum fees. Pursuant to §10332(b) of the NASD Regulation, Inc., Office of Dispute Resolution Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to §10332(c) of the Code, the Respondent is assessed all forum fees.

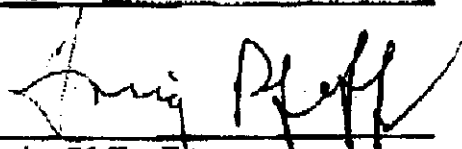
Pursuant to §10332(c) of the Code, NASD Regulation, Inc. shall **retain** the non-refundable filing fee in the amount of \$150 and shall **refund** the hearing session deposit made by the Claimants in the amount of \$500.

Pursuant to Rule 10333 of the Code, Respondent Stratton Oakmont Inc. shall pay to NASD Regulation, Inc. the \$300 past due member surcharge previously invoiced.

**Fees are payable to the NASD, Regulation, Inc.**

NASD Arbitration No. 96-05132

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Irving Pfeffer, Esq.

Public / Industry

Public Arbitrator

Presiding Chair

Samuel I. Romano, J.D.

Public Arbitrator

Marvin G. Breen

Industry Arbitrator

Date Served: June 15, 1998

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Irving Pfeffer, Esq.

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Samuel I. Romano, J.D.

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Marvin G. Breen

Date Served: June 15, 1998

Public / Industry

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Public Arbitrator  
Presiding Chair

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Public Arbitrator

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Industry Arbitrator

Irving Pfeffer, Esq.

Samuel I. Romano, J.D.

Marvin G. Breen 6/9/98

Marvin G. Breen

Date Served: June 15, 1998

Public / Industry

Public Arbitrator

Presiding Chair

Public Arbitrator

Industry Arbitrator