1ent shall the exercise of the above rights and responsibilities of the Employer violate the terms and conditions of this Agreement or restrict any rights of the employee under Wisconsin Statute 111.70. Management shall be notified through the employee's supervisor before that employee conducts any Association activity during working hours, and the occupation of such offices.

ARTICLE 9 DISCIPLINE

No employee shall be reprimanded, suspended or discharged except for just cause. The following shall be just cause for disciplinary action ranging from a warning to immediate discharge depending upon the seriousness of the offense in the judgement of the Employer.

(1) Dishonesty or falsification of records.

(2) Intemperate use of alcoholic beverages or drugs which affect job performance.

(3) Unauthorized use or abuse of County equipment or property.

(4) Theft or destruction of County equipment or property.

(5) Work stoppages such as strikes or slowdowns.

(6) Insubordination or refusal to comply with the proper order of an authorized supervisor.

(7) Unlawful conduct defined as a violation of or refusal to comply with pertinent laws and regulations when such conduct impairs the efficiency of the County service.

(8) Habitual tardiness, unauthorized or excessive absence or abuse of sick leave.

(9) Use of official position or authority for personal or political profit or advantage.

(10) Disregard or repeated violations of safety rules and regulations.

(11) Failure to adequately perform assigned job duties.

(12) Failure to follow duly established work rules, policies and procedures.

(13) Professional unethical conduct or behavior.

Other circumstances may warrant disciplinary action and will be treated on a case-by-case basis.

(a) SUSPENSION: Suspension is defined as the temporary removal without pay of an employee from his designated position. The Employer may, for disciplinary reasons, suspend an employee. Any employee who is suspended, except probationary employees, shall be given written notice of the reasons for the action, and a copy of such notice shall be made a part of the employee's personal history record, and a copy shall be sent to the Association.

(b) DISMISSAL: No employee shall be discharged except for just cause. Any employee who is dismissed, except probationary, shall be given a written notice of the reasons for the actions and a copy of the notice shall be made a part of the employee's personal history record and a copy sent to the Association. Any employee who has been discharged may appeal such action through the grievance procedure and shall initiate grievance action by immediate recourse to step 3 within five (5) calendar days of notice of discharge.

(c) DISCIPLINARY PROCEDURE: The progression of disciplinary action normally is 1) oral, 2) written, 3) suspension, 4) dismissal. However, this should not be interpreted that this sequence is necessary in all cases, as the type of discipline will depend on the severity of the offense. In all such cases, the employee shall have the right to recourse to the grievance procedure.

The steward or alternate shall be present during all disciplinary hearings and shall receive copies of all communications concerning disciplinary actions.

Background:

The grievant Dale Vogel was hired by the Brown County Department of Social Services on

February 1, 1975. In 1977 he moved to a position in the juvenile intake area. In this position he was responsible for conducting investigations and making recommendations regarding juveniles. He served as a juvenile intake social worker until 1979. During part of 1977 and 1978 the grievant provided intake services to a female juvenile client referred to as K.B., who was born in April of 1961. During this time he made recommendations regarding services and placement for K.B. During 1978, while a client of Brown County Social Services Department, the grievant and K.B. had a sexual relationship. Mr. Vogel acknowledges that he had a four (4) month sexual relationship with K.B., but maintains it occurred only after she was no longer his client.

The County learned of the relationship between Vogel and K.B. when Ms. Jeanette Schampers was having problems with her adolescent daughter and sought assistance from the Brown County Department of Social Services. While discussing treatment alternatives she was provided with the names of three social workers with which her daughter could work. Ms. Schampers indicated that she did not want her daughter to come in contact with the grievant Dale Vogel. When questioned about this request, Ms. Schampers explained that Vogel had a sexual relationship with her sister, K.B., when she was a minor and a client of the grievant. These objections were made known to Joan Slempkes of the Department of Social Services. Upon learning of these allegations the Human Resources Department conducted an investigation. This investigation included interviews with Ms. Schampers and the victim, K.B. After interviewing Ms. Schampers and K.B., the County determined that misconduct may have taken place. County representatives then met with the grievant and a Union representative to review the allegations. The grievant was informed at the meeting, that a complaint involving sexual misconduct had been lodged. The victim and the approximate time frame were identified. The grievant was not asked to respond and a subsequent meeting was established so that the Association attorney Fred Mohr could be present. In 1982, the grievant also had a sexual relationship with a former client who was approximately 24 years old. This relationship resulted in the birth of a child.

On May 13, 1994, the grievant received written notification that he was to be suspended for 30 working days without pay. A grievance was filed on May 17, 1994 on behalf of the grievant. The grievance was denied resulting in the instant arbitration proceeding.

Position of the Parties:

Association:

The Association argues that the County violated the grievant's right to due process by failing to give him sufficient notice regarding the charges against him. Citing several cases in support of its position, the Association asserts that the grievant was denied due process as he did not receive sufficient notice about what happened, when it happened, where it happened and who did what to whom. The labor contract specifically provides that an employe who is suspended shall receive written notice of the reasons for the action. The County failed to provide written notification regarding when the alleged violations occurred, where they occurred and who did what to whom. This failure violated Grievant Vogel's right to due process and inhibited his ability to defend himself. Consequently, the discipline imposed by the County cannot be sustained. The Association further argues that the alleged incidents occurred more than 16 years ago and are barred by the Statute of Limitations and the legal theory of Laches. The employment relationship

arises out of a contract and as a result, the Statute of Limitations begins to run from the moment the breach occurs. Wis. Stats. 893.43 provides that all action on contract violations must be commenced within six years from the time the cause of action accrues or it is barred. Therefore any right which the County had to bring disciplinary action against Dale Vogel ended six years after the incident. The Association also argues that the equitable right of laches is also applicable in the present instance. The Supreme Court set forth the following three criteria in order to assert the defense of laches: "(1) unreasonable delay, (2) lack of knowledge on the part of the party asserting the defense that the other party would assert the right on which he bases his suit, and (3) prejudice to the party asserting the defense in the event the action was maintained." In this case the delay was so inordinately unreasonable the County's action cannot be sustained. The Association also asserts there was not just cause to discipline the grievant. The County acknowledges that there were no work rules in existence at the time of the alleged offense. The County also acknowledges that the activities of the grievant were not criminal in nature at the time they occurred. While the present statute prohibits counselors from intimacy with their clients, it was not adopted until the mid-1980's. The statute that prohibits sexual intercourse with a child between the ages of 16 and 18 was not adopted until 1987. Prior to that time consensual relationships with minors who had reached the age of 16 were not prohibited by statute. The record supports that the relationship with K.B. did not begin until she was at least 16 years of age. The grievant testified that all instances of intimacy occurred outside of work hours and were consensual. The Association asserts that non work related activities are not grounds for discipline except under extreme circumstances. This activity has not had an adverse effect on the County or in the grievant's ability to provide service. While Ms. Schampers chose not to have the grievant work with her daughter, Ms. Schampers had the option to contact two other social workers. The actions of the grievant 16 years ago should not adversely affect the County. Further, the Association argues that the County's discipline of the grievant is very unfair as it occurred more than 16 years ago. He is now married and has two children.

County:

The County argues that the grievant was provided due process. He was fully informed about specific allegations made against him at a meeting attended by the County, the grievant and a Union representative. The person who made the allegation and the alleged victim were identified to the grievant. The County informed the grievant that the misconduct took place about 16 to 17 years ago when the grievant was the victim's case worker. The grievant had the information necessary to defend himself. As an additional show of County good faith, the grievant was not pressured into making a statement at the first meeting. The County suggested that a second meeting be scheduled so that the Association's attorney could also be present. The Association's contention that the grievant had already been disciplined for his sexual relationship with K.B. is without merit. While his supervisor at the time warned him about establishing a close personal relationship with K.B., she was unaware that a sexual relationship was occurring. The County also argues that it is not barred from pursuing disciplinary action on the basis of laches or the Statute of Limitations. The County points out that there is no contract language which mandates a time limitation on the imposition of discipline. Laches is defined as neglect to assert a claim which, combined with the lapse of time and other circumstances may cause prejudice to the adverse party. The delay between the time of the misconduct and the discipline is a direct result of the County's lack of knowledge. This lack of knowledge does not rise to the level of neglect by

any means. Further, when the County became aware of the allegations, a timely investigation was conducted. The County also argues that the evidence and testimony establishes that the grievant did engage in a sexual relationship with a client who was a minor. The testimony of K.B., as well as the grievant, establishes the time frame during which she was a client of the grievant. K.B. identified and the grievant acknowledged that a sexual relationship occurred. The County asserts that the uncontested facts establish that: (1) the grievant was K.B.'s case worker between late 1977 and early 1978; (2) that in 1978 the grievant had a sexual relationship with K.B.; and (3) that since K.B. was born in April of 1961, her age at the time of the relationship was approximately 16 and one-half years. The testimony of Ms. Schampers and K.B. is very credible. Ms. Schampers also identified that her husband at the time of the sexual relationship was an employe with the County's "ROADS" Program, and was aware that the grievant had been checking K.B. out of the youth home. While the grievant testified earlier that he didn't have the authority to check an individual out of the youth home, he later acknowledged that he did check juveniles (including K.B.) out of the youth home to work on his cottage. While the grievant acknowledges the sexual relationship, he indicates that it did not occur while K.B. was a client. The chronology of events however results in a different conclusion. In assessing the credibility of the individuals involved it's important to note that K.B. never sought any recourse for the grievant's actions. Further, she did not even report the incident. The incident only came to the County's knowledge when Ms. Schampers reported the relationship when her daughter could have possibly been assigned to the grievant. The County identified that the grievant has a great deal of motivation for lying with respect to whether his sexual relationship took place at the time she was his client. Even if K.B. was not a client at the time which is unlikely, Vogel was an authority figure dealing with a minor. The County also argues that the 30-day suspension was appropriate and should be upheld. The Union's contention that the discipline was inappropriate because his actions did not violate a work rule is without merit. Quite obviously it is inappropriate for a Social Worker to use his or her position to have sex with a juvenile. The fact that the conduct was not against the law at the time it occurred has no relevance in this matter. The grievant had input over the disposition of K.B.'s case, a fact that was well known to her. He took advantage of his position and exploited K.B. The Union's argument that discipline is not appropriate because the matter did not occur during work hours or on County property is without merit as well. The County points out that arbitrators have held that where an employe's misconduct adversely affects the business, the employe is subject to disciplinary action. Further, the County disputes the grievant's allegations that this conduct did not occur during work hours. K.B. was very clear in her testimony that the sexual relationship occurred during week days while Mr. Vogel was on duty as well as and in the evenings and on weekends. K.B. has no reason to fabricate the time during which the sexual relationship occurred. While the grievant indicates that this was a consensual relationship, it is clear that the grievant had significant power over the victim's life. Thus the conclusion that the relationship was consensual is reprehensible according to the County. The County also points out that sometime after in the early 1980's the grievant had a sexual relationship with a former client which resulted in the birth of a child.

Union Reply

In reply to the County's arguments the Union reasserts that the grievant was given inadequate notice regarding the charges against him. The test of adequate notice includes disclosing "what happened, when, where, and who did what to whom." Joint Exhibit 2, the

suspension letter, is deficient because it fails to identify the complainant as well as when and where the incidents occurred. The purpose of providing this information allows the accused to adequately defend himself. Without disclosing this information the grievant was unable to properly prepare a defense. The County now asserts that the violations occurred during working hours. This assertion occurred for the first time at the arbitration hearing and as such the grievant could not adequately defend himself because of the lack of prior notification. The Association further argues that his supervisor was aware of his relationship with K.B. and provided oral counseling. While the grievant does not know whether the supervisor knew the complete nature of this relationship, he does recall that his supervisor felt that the relationship was inappropriate and warned him accordingly. The supervisor was obligated to follow through and investigate inappropriate behavior. Apparently the supervisor felt that an oral warning was an appropriate response to the grievant's conduct. As previously argued by the Association, the Employer's conduct is barred by the Statute of Limitations. It is well settled that in any action for breach of contract the cause of action accrues when the breach occurs. The County's argument that its duty to discipline only accrued when it had specific knowledge of the incident is contrary to Wisconsin law. The County's disciplinary action occurred well after the six year period. The County's argument, that the contract does not prohibit it from bringing discipline after a 17-year period, is contrary to the law of the state. The absence of a contractual prohibition cannot overcome the limitations imposed by statutory and constitutional law. The County's argument that the application of the theory of Laches is inappropriate and cannot be accepted. While the County asserts that it acted in a timely fashion once it had notice of the grievant's infraction, it only cites a private sector case occurring outside of Wisconsin which does not lend substantial support to the County's argument. As previously stated, the law in Wisconsin clearly requires that an action for breach of contract be brought within six years from the event. The grievant does not deny that he had a sexual relationship with K.B. He does deny that it occurred when she was his client. Vogel further denies that it occurred on work time or in violation of any existing departmental rule, regulation or state law. The Association further argues that, while the credibility of the witnesses is within the sole discretion of the Arbitrator, K.B.'s recollection of the incidents are by her own admission somewhat faulty, hazy and inaccurate. The County has not proved by clear and convincing evidence that the allegations against the grievant are true. Since state law did not prohibit a consensual sexual relationship with an individual who was at least sixteen (16) years of age and the County had no rule prohibiting it, the County's action to impose discipline is not reasonable. The grievant admittedly had difficulty during a portion of his twenties. However, he has corrected his problems and been a productive member of the Social Service staff for an extended period of time. Since his earlier difficulty he has married and become the father of two children. The grievant has suffered pain and embarrassment as a result of the County's actions. In conclusion the Association asserts that sustaining this suspension would be a gross miscarriage of justice.

County Reply

The County argues that the Statute of Limitations and the legal theory of Laches does not prohibit the County from imposing discipline. The imposition of discipline is not considered a cause of action and therefore the Statute of Limitations does not apply. Further the County did not have knowledge of the grievant's activities and did not sit on its rights to discipline the grievant. Once the County became aware of the sexual misconduct and conducted an investigation, action

was taken. The County further asserts that under Laches an acceptable excuse for delay is a party's lack of knowledge of the infraction. The County also argues that the Association's due process argument asserting it failed to fully apprise the grievant of the

allegations against him should be dismissed. County exhibit 2 clearly provided written notice of the reasons for the suspension. Further, the County met on several occasions prior to imposing his discipline to review the matter with the grievant and his Association representatives. The Association's argument that he was previously disciplined by an earlier supervisor is completely without merit. The supervisor felt that he was too close to the client and cautioned him in that regard. The grievant testified that his supervisor was unaware that he was having a sexual relationship with K.B. The Union argument that there was no just cause to discipline the grievant is also without merit. A portion of this argument is based on the fact that the grievant's conduct was not criminal at the time. While this is correct because the statute was enacted after the relationship, the fact remains that the behavior was morally wrong. Sexual relationships between social workers and minor clients have never been condoned. Further, this type of behavior violates professional ethics subscribed to by professionals dealing with minors. The Union argument that the behavior of the grievant is not subject to disciplinary action because it does not violate a work rule is also without merit. In situations where an activity is so clearly wrong, such as theft, violence or indecent conduct, no warning or rule is necessary. Further the Union contention that the sexual activity took place outside of working hours and therefore the grievant is not subject to discipline should not be considered. While there is a dispute between the grievant and the victim regarding when the activity took place, whether it occurred on duty or off duty, discipline is certainly warranted. Even if the activity only occurred off duty the nexus between the misconduct and the grievant's ability to perform his responsibilities is inescapable. The grievant's misconduct also impunes the County's reputation as it relates to the grievant's suitability for performing social work services. Clients could, as Ms. Schampers has done, question the suitability and quality of social work services being provided by the County. Given the seriousness of the misconduct the County is certainly justified in suspending the grievant for thirty days.

Discussion:

The Association argues that the Statute of Limitations and the theory of Latches prohibits the County from imposing discipline in this case. While the Statute of Limitations may act as a bar in certain criminal or civil matters, it does not apply in this situation to the employer/employe relationship. The key question is whether the labor contract has any time limitations regarding the imposition of discipline. A review of the contract shows that while there are time lines established for leaves of absence, the grievance procedure, job postings and other areas, there are no time limitations regarding the imposition of discipline.

The Union's Laches argument would be persuasive if the contract encompassed a right to prompt disposition of misconduct allegations and the record demonstrated that the County was aware of Mr. Vogel's conduct but was neglectful in administering discipline. I am persuaded the just cause standard includes the right of prompt disposition of misconduct allegations. However, under the contract (and Laches) lack of knowledge is an acceptable explanation for delay. The

record demonstrates that the extensive delay between Vogel's misconduct and the issuance of discipline was due to the County's lack of knowledge. When the County became aware of the sexual misconduct allegations, the County responded in a timely manner by investigating the claims and informing the grievant. After the investigation was complete and the County concluded that discipline was warranted, it was administered in a timely manner.

The Association also argues that the grievant was denied due process rights because he did not receive sufficient notice regarding the charges as specifics were not included in his suspension letter. If this letter was the only notice regarding the allegation the grievant received, the Association's argument would be persuasive. However the purpose of the suspension letter was to convey a summary of the County's investigation, the general reasons for the disciplinary decision and provide the dates of the suspension. The Human Resources Department conducted an investigation. K.B., the alleged victim, and Jeanette Schampers, K.B.'s sister, were interviewed. When the County concluded that there was reason to believe that misconduct may have occurred, a meeting with the grievant was held. At this meeting, the grievant was told about the allegation that he had had sexual intercourse with a former client, K.B., who was also a minor at the time. The Grievant was told that this occurred approximately seventeen years ago. Mr. Vogel was told that the County did not expect an immediate response given the circumstances, but that a second meeting would be established when Association Attorney Fred Mohr could be present. In subsequent meetings, the Grievant was given the opportunity to defend himself and to respond to the charges. After considering all available information, the County decided to suspend the grievant for thirty work days for unprofessional and unethical conduct. Prior to responding to the charges the grievant was provided with relevant details. The meetings and procedures utilized by the County assured that the grievant was provided sufficient notice such that any due process contract rights were not denied.

The Association's final procedural argument is that the grievant had been previously disciplined for his relationship with K.B. and therefore cannot be disciplined again. The record supports that while a former supervisor, Nancy Bohm, cautioned the grievant about the closeness of his relationship with K.B., neither the County nor Bohm was aware of Vogel's sexual involvement. The grievant's testimony further undermines the Association's argument as he testified that he did not consider his supervisor's remarks as discipline. Vogel's specific testimony on this point is as follows:

> Rader: You never received any discipline from Nancy Bohm regarding your relationship with K.B., did you?
>
> Vogel: Other than what she gave me verbally. The caution she had given me verbally and her awareness of it.
>
> Rader: She had given you a caution but it was not discipline?
>
> Vogel: No. I don't know if you want to term that as discipline.
>
> Rader: And you did not share with her the fact that you were having intercourse with K.B.?

Vogel: That wasn't the course of the conversation.

Rader: Right. But you didn't share that information with her?

Vogel: No. (Tr. 94 - 95)

The counseling or caution provided by Bohm does not rise to the level of discipline. The record supports that the supervisor was not aware of a sexual relationship and did not discipline the grievant. Given the foregoing the undersigned concludes that the Association's double jeopardy argument is unpersuasive.

The Association submits that the discipline was not for just cause in part because the sexual relationship was consensual and only developed after Mr. Vogel ceased being her social worker. K.B. testified that the sexual relationship began while Vogel was her social worker. She stated that Vogel would check her out of various facilities such as the youth home and jail so that they could have sex. Ms. Schampers testified that on one occasion she observed the grievant and her sister riding in the grievant's car when K.B. was being detained in the youth home. After this encounter K.B. confided in her sister that the two were having sexual intercourse. Ms. Schampers also testified that her husband, who was employed by the County, told her that Vogel periodically checked K.B. out of the youth home.

Traditionally arbitrators look at the motivation of various witnesses to lie or be truthful when deciding credibility issues. In this case the only reasons this event came to light was because of Ms. Schamper's involvement with the Brown County Social Services Department. Ms. Schamper's complaint surfaced when she objected to having her adolescent daughter become a client of Mr. Vogel. K.B. only became involved when she was contacted by the County as part of the investigation. They did not file charges or seek other relief from the County or the grievant. Their only motivation was to keep Ms. Schamper's daughter away from Vogel. Mr. Vogel's motivation in this matter is very obvious. These are serious charges that have financial and professional implications. It is certainly to his advantage to put these allegations in the best possible light. While all parties acknowledge that these events occurred a long time ago and that exact times and dates were difficult to determine, the general recollections of K.B. and Ms. Schampers must be given great weight.

Based upon the testimony it is clear to the undersigned that at least part of the sexual relationship occurred while the grievant was K.B.'s social worker. This is because the record establishes that the grievant checked K.B. out of County facilities to have sexual intercourse. It is logical to conclude that the grievant was acting in an official capacity which allowed him to remove her from county facilities. The grievant's testimony in this regard is also less than credible. During part of his testimony Vogel testified that he lacked authority and was unaware of the procedure for checking a client out of the youth home except in court ordered matters. Later he acknowledged that he checked juveniles, including K.B., out of the shelter home to help him stain his cottage on Green Bay. This credibility concern is also increased by the grievant's earlier cited testimony regarding supervisor Bohm's counseling. If he was not involved sexually at the time, it is likely he would have so stated in response to counsel's question.

Even if this sexual relationship did not occur while Vogel was K.B.'s primary social worker, as he asserts, it certainly occurred immediately thereafter. Given the victim's age and vulnerability, any relationship such as this would have been inappropriate both morally and professionally. While the grievant asserts that this relationship was consensual, it is clear that K.B. viewed him as an authority figure who controlled her life. Her view is reflected in the following testimony:

> K.B. He had total control because I was a ward of the state. He could recommend whatever he felt like recommending. He was more or less my guardian as far as I saw it. He was my guardian. I mean if you went into the courtroom, "Judge I believe K.B. should be here for X amount of what or whatever," that's where K.B. would be. Well if K.B. wanted to be out of the youth home for the day, Dale walked right in there and K.B. was out of the youth home. You know, that's what -- I mean, it was in his hands. That's why I never said anything to anybody because I didn't want to be put in a position where I could never get out. (Tr. 59)

In K.B.'s view Vogel was her guardian who had the power to determine whether she went to foster care, a treatment center or a juvenile detention facility until the age of eighteen. The grievant took advantage of his position of power and authority with Brown County to sexually exploit K.B.

The Association argues that since all instances of sexual intercourse occurred outside of work hours the grievant should not be subject to discipline. K.B. credibly testified that she and Vogel had sexual intercourse on weekdays, in the evenings and on weekends. The week day sex would occur when Vogel would check her out of the youth home. Again, looking at motivation, K.B. would have no reason to fabricate testimony about sex occurring during Vogel's work day. Even if cast in its best light as the Association urges, the grievant's behavior cannot be excused. Arbitrators consistently conclude that when there is a nexus between off the job conduct and an individual's employment, discipline can be supported. Certainly the grievant's conduct, even if it was restricted to off duty hours, could serve to undermine the ability of Brown County to provide effective social services. As discussed earlier, Vogel took advantage of his role and betrayed a troubled youth who needed treatment and support. Whether this betrayal occurred outside of the grievant's work day is of little consequence and certainly cannot be used to excuse or condone his behavior.

The Association argues that the grievant should not be subject to discipline because he did not violate a work rule. The Association further contends that at the time sexual relations with individuals who were at least sixteen years of age were not prohibited by statute as they are now. Further, the statute that prohibits intimacy between counselors and clients was not enacted until the mid-1980's. While the grievant's behavior may not have violated the law or a specific work rule at the time it occurred, this can hardly be construed as an endorsement or acceptable excuse.

Arbitrators have concluded that in cases when behavior is so clearly objectionable and inappropriate, a specific work rule is not necessary. The grievant was a professionally trained social worker who should have been able to distinguish right from wrong. K.B. was a troubled sixteen year old child who was a ward of the state. She had a history of running away, incarceration, drug and alcohol use. K.B. viewed Vogel as a guardian who had great control over her life. As a social worker he was in a position to recommend services and methods to help her deal with her problems. Rather than using his position and professional training for the best interest of K.B., he used those to win her confidence and exploit her sexually. In this case Vogel's behavior was so obviously objectionable that a specific work rule prohibiting sexual relations with juvenile clients or former clients was not necessary. Further the County has reserved the contractual right in Article 9 to discipline employes for actions not specifically identified in the contract. The Association's argument regarding the lack of a statutory prohibition or specific work rule must be rejected.

AWARD

For the foregoing reasons and based upon the record as a whole, it is the decision of the undersigned Arbitrator that:

1. The County did not deny the grievant his due process rights by failing to give sufficient notice of the charge against him.

2. The County was not prevented from disciplining the grievant by the Statute of Limitations or Laches.

3. The Employer had just cause to suspend the grievant Dale Vogel.

4. The grievance is therefore, denied.

Dated at Madison, Wisconsin this 3rd day of February, 1995.

By William K. Strycker /s/
William K. Strycker, Arbitrator

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