

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:
Ralph Miller, Claimant v. Sutro & Co., Incorporated and Timothy L. Jensen, Respondents

Case Number: 01-00464

Hearing Site: Portland, OR

REPRESENTATION OF PARTIES

For Claimant:

Steven M. Wilker, Esq.
Tonken Torp, LLP
1600 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204

For Respondents:

Thomas V. Dulcich, Esq.
Schwabe, Williamson &
Wyatt, P.C
1211 S.W. Fifth Avenue
Pacwest Center, Suite 1600-
1900
Portland, OR 97204-3795

CASE INFORMATION

Statement of Claim filed: January 30, 2001

Claimant's Uniform Submission Agreement signed: December 20, 2000

Statement of Answer filed by Respondent: March 20, 2001

Respondent, Timothy L. Jensens' Uniform Submission Agreement signed: March 10, 2001

Respondent, Sutro & Co., Incorporated's Uniform Submission Agreement signed: March 13, 2001

CASE SUMMARY

Claimant alleged unauthorized trading; unsuitable recommendations; breach of contract; breach of fiduciary duty and violation of federal and state securities laws, including section 10(b) of the

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Securities and Exchange Act of 1934; and the securities laws of the States of Oregon and Washington. The claims relate to the purchase of bonds.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim. Additionally, Respondents asserted several affirmative defenses, including unclean hands; failure to mitigate; ratification; estoppel and waiver; lack of scienter; comparative fault; and that Respondents are entitled to attorney's fees.

RELIEF REQUESTED

Claimant requested \$500,000 (actual damages); interest from the date of the loss; attorney's fees; expenses reasonably incurred, including filing, hearing, and arbitrator and expert witness fees; and such other relief as the arbitrators deem just and proper.

Respondents requested dismissal, with prejudice, of the Claimant's Statement of Claim in its entirety; an award of costs; and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

At the arbitration hearing that commenced on December 17, 2001, the Claimant filed a written amendment to his Statement of Claim to change the amount requested for actual damages from \$500,000 to \$377,742.

AWARD

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

- 1) The Panel was concerned about Respondent Timothy Jensen's failure to document his file from the inception of and through his relationship with Ralph Miller. Despite the lack of documentation in Mr. Jensen's file, Claimant has failed to meet his burden of proof with respect to his claims of breach of contract, breach of fiduciary duty, and violation of federal and state securities laws. Therefore, Respondents prevail on all claims.
- 2) Each party shall bear its own costs and fees, including attorney's fees.
- 3) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 300

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm is a party and the following fees are assessed:

Member Surcharge	= \$1500
Pre-Hearing Process Fee	= \$ 600
<u>Hearing Process Fee</u>	<u>= \$2500</u>
Total Member Fees	= \$4600

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$ 450/session = \$ 450
Pre-hearing conference: October 4, 2001 1 session

One (1) Pre-hearing conference session with the Panel @ \$1125/session = \$1125
Pre-hearing conference: August 22, 2001 1 session

Four (4) Hearing sessions @ \$1125/session = \$4500
Hearings: December 17, 2001 2 sessions
December 18, 2001 2 sessions

Total Forum Fees = \$6075

1. The Panel assessed \$3037.50 of the forum fees to Claimant.
2. The Panel assessed \$3037.50 of the forum fees to Respondents jointly and severally.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 300
<u>Forum Fees</u>	<u>= \$3037.50</u>
Total Fees	= \$3337.50
<u>Less Payments</u>	<u>= \$(1425)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1912.50

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2. Respondent, Sutro & Co., Incorporated, is charged with the following fees and costs:

<u>Member Fees</u>	= \$4600
Total Fees	= \$4600
<u>Less Payments</u>	= \$(5600)
Refund Due	= (\$1000)

3. Respondents, Sutro & Co., Incorporated and Timothy L. Jensen are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$3037.50
Total Fees	= \$3037.50
<u>Refund of Member Fees Applied</u>	=(\$1000)
Balance Due NASD Dispute Resolution, Inc.	= \$2037.50

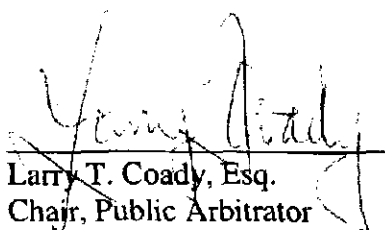
All balances are payable to NASD Dispute Resolution, Inc. and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

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ARBITRATION PANEL

Larry T. Coady, Esq.	-	Public Arbitrator, Presiding Chair
Kim Trowbridge Buckley	-	Public/Non-Public Arbitrator
R. Scott Smith	-	Non-Public Arbitrator

Concurring Arbitrators' Signature


Larry T. Coady, Esq.
Chair, Public Arbitrator

12/28/01
Signature Date

Kim Trowbridge Buckley
Public Arbitrator

Signature Date

R. Scott Smith
Industry/Non-Public Arbitrator

Signature Date

Date Served:

DEC 31 2001

Date of Service

NASD Dispute Resolution, Inc.

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ARBITRATION PANEL

Larry T. Coady, Esq.

Kim Trowbridge Buckley

R. Scott Smith

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Public Arbitrator, Presiding Chair

Public/Non-Public Arbitrator

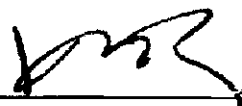
Non-Public Arbitrator

Concurring Arbitrators' Signature

Larry T. Coady, Esq.

Chair, Public Arbitrator

Signature Date



Kim Trowbridge Buckley
Public Arbitrator

12/27/01

Signature Date

R. Scott Smith

Industry/Non-Public Arbitrator

Signature Date

Date Served:

DEC 31 2001

Date of Service

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ARBITRATION PANEL

Non-Public Arbitrator

Concurring Arbitrators' Signature

Chair, Public Arbitrator

Signature Date

Public Arbitrator

Signature Line

Industry/Non-Public Arbitrator

Signature _____ de _____

Date Served:

DEC 31 2001

Date of Service