

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Jeffrey P. Cude and  
Nancy A. Recklen.

90-03071

Name of Respondent(s)

Sutro & Co., Inc. and  
Sidney Meyers

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REPRESENTATION

For Claimants: Jeffrey P. Cude and Nancy A. Recklen of 8140 Winthrop Street,  
Oakland, California 94605

For Respondents: Eric G. Wallis, Esq. of Wallis, Crosby, Heafey, Roach &  
May, 1999 Harrison Street, 22nd Floor, Oakland, California 94612

CASE INFORMATION

Statement of Claim filed: October 31, 1990

Claimants' Submission Agreement signed on: October 25, 1990

Statement of Answer filed by Respondents on: February 5, 1991

Respondents' Submission Agreement signed on: January 29, 1991

HEARING INFORMATION

Hearing Date(s)/Sessions: October 10, 1991, two sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants alleged lack of suitability and misrepresentation in the purchase of Papercraft Corporation debentures (Papercraft) and National Gypsum Corporation debentures (Gypsum) for their Individual Retirement Accounts.

Respondents denied each and every allegation of the claim and alleged full disclosure, good faith belief in the suitability of the investment, claimants' knowledge that the investments were not risk free, failure to mitigate damages and the applicable statute of limitations.

#### RELIEF REQUESTED

Claimant requested:

1. Compensatory damages for the loss in Papercraft of \$4,000.00 (as amended at hearing);
2. Compensatory damages for the loss in Gypsum of \$1,000.00, plus interest.

#### OTHER ISSUES CONSIDERED & DECIDED

None.

#### AWARD

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

1. Respondents are jointly and severally liable and shall pay claimant Jeffrey Patrick Cude the sum of \$2,000.00 for loss of value on the "Papercraft" debentures from respondents, and \$495.00 for the loss in the value of the "National Gypsum" debentures. He is denied pre-judgment interest. He is awarded post judgment interest to accrue thirty days from the effective date of this award in the amount of 10% per annum. He is directed to assign and transfer his "Papercraft" debentures to respondent Sutro and Company within Thirty days of the effective date of this award.

2. Respondents are jointly and severally liable for and shall pay claimant Nancy Ann Redden the sum of \$2,000.00 for loss value on the "Papercraft" debentures from respondents, and \$510.00 for the loss in the value of the "National Gypsum" debentures. She is denied pre-judgment interest. She is awarded post judgment interest to accrue thirty days from the effective date of this award in the amount of 10% per annum. She is directed to assign and transfer her "Papercraft" debentures to respondent Sutro and Company within thirty days of the effective date of this award.

3. The parties shall each bear their respective costs including attorneys' fees.

#### OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrator, which is to be paid by respondent to claimants. In addition, respondent Sutro & Co. is also assessed fees of \$100.00, representing charges for forum fees.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Name:  
Herb Schwartz

Public/Industry  
Public

Concurring Arbitrator's Signature

  
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Herb Schwartz

DATE SERVED: 11/25/91

Date of Decision: 11/6/91