

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

M. Jane Hall and Austin Hall

91-01034

Name of Respondent(s)

Sutro & Company

Kirk Aguer

REPRESENTATION

For Claimant: Robert Verber, Esq., Weld, Freeland, Cooper and LeHocky, San Francisco, California

For Respondent Sutro and Company: Jeffrey J. Cole, Esq., and Lynn A. Starr, Esq., Jackson, Tufts, Cole and Black, San Francisco, California

For Respondent Aguer: Bruce Bryson, Esq., San Rafael, California

CASE INFORMATION

Statement of Claim filed: April 3, 1991

Claimants' Submission Agreement signed on: March 22, 1991

Statement of Answer filed by Respondent Sutro and Company on: August 15, 1991

Statement of Answer filed by Respondent Kirk Aguer on: August 15, 1991

Respondent Sutro and Company's Submission Agreement signed on: July 16, 1991

Respondent Kirk Aguer's Submission Agreement signed on: August 14, 1991

HEARING INFORMATION

Hearing Date(s)/Session(s):	April 21, 1992 -	Two Sessions
	April 22, 1992 -	Two Sessions
	May 1, 1992 -	Three Sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants alleged intentional misrepresentation, fraud, unsuitability, breach of contract, breach of implied duty of good faith, violation of California Corporate Securities Law of 1968 and violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, with respect to investments in option income funds, bond funds, common stock, covered calls, and real estate investment trusts.

Respondents separately denied all allegations of wrongdoing; each asserted that Claimants at all times controlled their account and made their own investment decisions after reviewing materials relative to recommendations made by their broker. Respondents also asserted that all claims are barred by applicable statutes of limitation.

RELIEF REQUESTED

Claimants requested damages of approximately \$100,000.00, plus interest, lost profits, punitive damages, costs of arbitration and attorneys' fees.

Respondents each requested dismissal of all claims and an award of costs of arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

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. All claims asserted by Claimants, including the claim for punitive damages, are dismissed in their entirety.
2. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section <43c> of the Code of Arbitration Procedure, the following forum fees are assessed:

1.	Claimant (1 session X \$750.00 / session)	\$750.00
	<u>Credit for Deposit</u>	<u>\$750.00</u>
	Balance Due	\$ 0.00
2.	Respondent Sutro & Co. (3 sessions X \$750.00 / session)	\$2,250.00
3.	Respondent Kirk Aguer (3 sessions X \$750.00 / session)	\$2,250.00

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

ARBITRATION PANEL

<u>Name</u>	<u>Public/Industry</u>
Joanna Leighton	Public Chairperson
A. Bruce McKenzie	Public
Marvin G. Breen	Industry

Concurring Arbitrators' Signatures

Joanna Leighton

DATE SERVED: 05/27/92

Date of Decision: May 1, 1992