

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jerine D. Schoenwaid

**NASD Arbitration
No. 91-02660**

Name of Respondent

Sutro & Co., Inc.

REPRESENTATION

For Claimant: Archibald M. Mull, Esq., Sacramento, California.

For Respondent: Douglas A. Kuber, Esq., Jones, Day, Reavis & Pogue, Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 22, 1991

Claimant's Submission Agreement signed: August 16, 1991

Statement of Answer filed by Respondent: November 15, 1991

Respondent's Submission Agreement signed: October 31, 1991

HEARING INFORMATION

Hearing Date(s)/Sessions:	March 30, 1993	-	2 sessions
	March 31, 1993	-	2 sessions
	June 15, 1993	-	2 sessions
	June 16, 1993	-	2 sessions

Deliberation Date: July 1, 1993

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant, Jerine D. Schoenwald, alleged lack of suitability, misrepresentation, failure to supervise, and breach of fiduciary duty in connection with the recommendation and sale of VMS Securities for Claimant's account.

Respondent, Sutro & Co., Inc., denied each and all allegations of wrongdoing and asserted that Claimant authorized and ratified each and every transaction in her account. Thus, Respondent asserted that Claimant should be barred from any recovery under the doctrines of waiver, laches and estoppel. Further, Respondent alleged that Claimant was aware of the risks associated with her account, knowingly assumed them, and failed to mitigate any losses. Lastly, Respondent alleged that each and every cause of action asserted by Claimant is barred by applicable statutes of limitations.

RELIEF REQUESTED

Claimant, Jerine D. Schoenwald, requested Compensatory Damages of \$65,000.00 and Treble Damages of \$195,000.00.

Respondent, Sutro & Co., Inc., requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

Due to violations of an order regarding restricted use of specified documents, the following sanctions are hereby ordered:

1. The documents described herein below shall not be used in any other proceedings in any other cases brought by Archibald Mull III, his associates, partners, or firms with whom he associates.
2. Said documents shall not be provided to any other person, firm, organizations, corporations or entities; in the event this order is violated, the documents will not be admissible in any proceedings.
3. The evidence developed from the documents listed below is excluded from this hearing.
4. Any documents or evidence discovered as a result of Claimant's, Jerine D. Schoenwald, possession of the documents listed below shall be excluded from future hearings as well as excluded from this hearing.

The documents are the personnel file and the complaint file of Mark Mandel while he was employed at Sutro and Company.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Sutro & Co., Inc., is hereby liable to Claimant, Jerine D. Schoenwald, for the sum of Nine-Thousand, Seven-Hundred and Fifty Dollars and no cents (\$9,750.00).
2. Each party shall bear their own respective fees and costs.
3. In addition, the arbitrators award the above listed sanctions against Claimant, Jerine D. Schoenwald, and Claimant's Attorney, Archibald M. Mull.

FORUM FEES

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

Total fees:

8 hearing sessions @ \$400 / session = \$3,200.00

Claimant's one-half share \$1,600.00

Credit for deposit \$ 750.00

Balance Due \$ 850.00

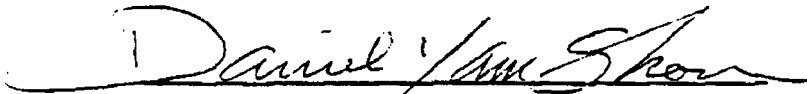
Respondent's one-half share \$1,600.00

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

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Daniel Yamshon, Esq.	Public Chair
Marlyn G. McClaskey	Industry Panelist
Lester Friedman, Esq.	Public Panelist

Concurring Arbitrators' Signatures


Daniel Yamshon, Esq.

1/27/93

Marlyn G. McClaskey

Lester Friedman, Esq.

DATE SERVED: