

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
In the matter of the Arbitration Between

Name of Claimant(s)

Michael Donnelly

vs.

NASD Arbitration  
#93-01988

Name of Respondent(s)

Sutro & Co., Inc.

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REPRESENTATION

For Claimant: Morris J. Baller, Esq., Morris, Reid & Sheehy, San Francisco, California

For Respondent: Abe Lampart, Esq., Sutro & Co., Inc., San Francisco, California

CASE INFORMATION

Statement of Claim filed: May 18, 1993

Claimant's Submission Agreement signed: May 14, 1993

Amended Statement of Claim filed: October 25, 1993

Respondent's Statement of Answer filed: September 24, 1993

Respondent's Submission Agreement signed: September 24, 1993

### HEARING INFORMATION

Pre-hearing conference date/session: March 23, 1993 - 1 session

Hearing dates/sessions:

April 12, 1994 - 2 sessions  
April 13, 1994 - 2 sessions  
April 14, 1994 - 2 sessions  
April 15, 1994 - 2 sessions  
April 25, 1994 - 1 session

Hearing location - San Francisco, California

### CASE SUMMARY

Claimant alleged money due him arising from his employment with Respondent for amounts due as a bonus on profits, lost compensation and lost future compensation, and wages and penalties due as a result of Respondent's delay in paying his wages and accrued vacation due at termination. Claimant also alleged wrongful termination, breach of express and implied contract for employment, breach of the covenant of good faith and fair dealing, and violations of the California Labor Code.

Respondent denied the allegations of the claim, and asserted that Claimant had been an at-will employee who could be terminated at any time, but was, in fact, terminated for cause. Respondent denied the existence of either an express or implied employment contract, and denied that Claimant was owed additional compensation or damages.

### RELIEF REQUESTED

Claimant requested damages in excess of \$500,000 plus interest, expenses, attorney's fees and costs of arbitration.

Respondent requested dismissal of all claims.

### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award maybe 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. Respondent is liable for and shall pay to Claimant the sum of \$144,981 exactly in satisfaction of all claims.
2. The parties shall each bear their respective costs, including attorney's fees.

### FORUM FEE

Pursuant to Section 44 (c) of the Code of Arbitration Procedure, the NASD shall retain the \$500 non-refundable filing fee paid by Claimant.

Forum fees are to be split between the parties as follows:

Total fees:

One pre-hearing session @ \$300/session	-	\$300
Nine hearing sessions @ \$1000/session	-	<u>9000</u>
		\$9300
Claimant's one-half share		\$4650
Credit for hearing session deposit		<u>1000</u>
Balance due		\$3650
		- - - - -
Respondent's one-half share		\$4650
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Fees are payable to the NASD, Inc.


Concurring Arbitrators Signatures

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Marcus Eugene Gracia, Jr.

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Douglas F. Thornsjo

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Robert A. White

Date of Decision: 5/19/94

Date Served: 05/31/94