

AWARD
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan

and

99-01236
Phoenix, Arizona

Name of Respondents

Sutro & Co., Incorporated
Sidney Meyers

REPRESENTATION OF PARTIES

Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan ("**Claimant**") was represented by Michael H. Moss, Esq., Park Ridge, Illinois.

Sutro & Co., Incorporated ("**Respondent Sutro**") and Sidney Meyers ("**Respondent Meyers**") were represented by Peter R. Boutin, Esq., Keesel, Young & Logan, San Francisco, California.

CASE INFORMATION

The Statement of Claim was filed on or about March 16, 1999. Submission Agreement of Claimant Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan was signed on March 4, 1999.

Sutro & Co., Incorporated and Sidney Meyers' Answer to Statement of Claim was filed on or about June 10, 1999. Submission Agreement of Respondent Sutro & Co., Incorporated was signed on May 3, 1999 by Mary Jane Delaney. Submission Agreement of Respondent Sidney Meyers was signed on May 18, 1999.

CASE SUMMARY

Claimant alleged that Respondent Meyers made material misrepresentations and omitted material facts in connection with his recommendation to purchase Acme Metaqls Incorporated 12 ½% Senior Secured Notes. In addition, Claimant alleged that this investment was not suitable for the Profit Sharing Plan.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that:

- the purchase of Acme Metal was suitable for an experienced and sophisticated investor like Dr. Weiss whose investment objectives included "income-risk";
- Mr. Meyers accurately and forthrightly described the notes to Dr. Weiss;
- the Acme Notes represented a mere 16% of Dr. Weiss' Sutro portfolio, which consisted of four separate individual and retirement-type accounts;
- the purchase of the Acme Notes was reasonable in view of Dr. Weiss' insistence upon an enhanced return and the fact that, just 3 months earlier, Acme had bought back a significant portion of the Secured Notes.

RELIEF REQUESTED

Claimant requested an award of actual damages in excess of \$100,000, the exact amount to be determined at hearing; attorneys' fees; costs; disbursements, and expenses incurred in pursuing this arbitration, and for such other damages as may be established at the hearing; and for such other relief as the arbitrators shall deem just and equitable.

Respondents requested that Dr. Weiss' claim be dismissed with prejudice and an order be entered *expunging this claim from the CRD record of Mr. Meyers.*

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 may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution (the "NASD").

AWARD

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

1. Claimant's request for damages, attorneys fees and other costs set forth in his claim shall be and hereby are denied.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$200.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Sutro & Co., Incorporated.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$2,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session(s) with a single arbitrator x \$300.00 = \$ 300.00
Pre-hearing conference(s): Date 1 session

One (1) Pre-hearing session(s) with Panel x \$750.00 = \$ 750.00
Pre-hearing conference(s): October 6, 1999 1 session

Two (2) Hearing sessions x \$750.00 = \$1,500.00
Hearing Date(s): January 25, 2000 2 sessions

Total Forum Fees = \$2,550.00

The Arbitration Panel has assessed \$1,275.00 of the forum fees to Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan.

The Arbitration Panel has assessed \$1,275.00 of the forum fees jointly and severally to Sutro & Co., Incorporated and Sidney Meyers.

Fee Summary

Claimant, Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan, shall be and hereby is liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= <u>\$1,275.00</u>
Total Fees	= \$1,525.00
<u>Less payments</u>	= <u>\$ 950.00</u>
Balance Due NASD Regulation, Inc.	= \$ 575.00

Respondent, Sutro & Co., Incorporated, shall be and hereby is liable for:

<u>Member Fees</u>	= <u>\$4,600.00</u>
Total Fees	= \$4,600.00
<u>Less payments</u>	= <u>\$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondents, Sutro & Co., Incorporated and Sidney Meyers, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= <u>\$1,275.00</u>
Balance Due NASD Regulation, Inc.	= \$1,275.00

All balances are due to NASD Regulation, Inc.

Dated:

/s/ Warren C. Kotzmann

Warren C. Kotzmann
Public Arbitrator, Presiding Chair

/s/ Patrick J. Halter

Patrick J. Halter
Public Arbitrator

/s/ Roy R. Petsch, II

Roy R. Petsch, II
Industry Arbitrator

March 28, 2000

March 28, 2000

Fee Summary

Claimant, Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan, shall be and hereby is liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= <u>\$1,275.00</u>
Total Fees	= \$1,525.00
<u>Less payments</u>	= <u>\$ 950.00</u>
Balance Due NASD Regulation, Inc.	= \$ 575.00


Respondent, Sutro & Co., Incorporated, shall be and hereby is liable for:

<u>Member Fees</u>	= <u>\$4,600.00</u>
Total Fees	= \$4,600.00
<u>Less payments</u>	= <u>\$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondents, Sutro & Co., Incorporated and Sidney Meyers, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= <u>\$1,275.00</u>
Balance Due NASD Regulation, Inc.	= \$1,275.00

All balances are due to NASD Regulation, Inc.


Warren C. Kotzmann
Public Arbitrator, Presiding Chair

Dated: _____

Patrick J. Halter
Public Arbitrator

Roy R. Petsch, II
Industry Arbitrator

NASD Regulation, Inc. Office of Dispute Resolution
 Arbitration No. 99-01236
 Award Page 4 of 4

Fee Summary

Claimant, Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan, shall be and hereby is liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$1,275.00
Total Fees	= \$1,525.00
<u>Less payments</u>	= \$ 950.00
Balance Due NASD Regulation, Inc.	= \$ 575.00

Respondent, Sutro & Co., Incorporated, shall be and hereby is liable for:

<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$4,600.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondents, Sutro & Co., Incorporated and Sidney Meyers, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,275.00
Balance Due NASD Regulation, Inc.	= \$1,275.00

All balances are due to NASD Regulation, Inc.

Dated:

 Warren C. Kotzmann
 Public Arbitrator, Presiding Chair

 Patrick J. Walter
 Public Arbitrator

 Roy R. Petsch, II
 Industry Arbitrator

 28 March 2000

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 99-01236
Award Page 4 of 4

Fee Summary

Claimant, Barry Weiss, TTEE The Barry Weiss M.D. Profit Sharing Plan, shall be and hereby is liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$1,275.00
Total Fees	= \$1,525.00
<u>Less payments</u>	= \$ 950.00
Balance Due NASD Regulation, Inc.	= \$ 575.00

Respondent, Sutro & Co., Incorporated, shall be and hereby is liable for:

<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$4,600.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Respondents, Sutro & Co., Incorporated and Sidney Meyers, shall be and hereby are jointly and severally liable for:

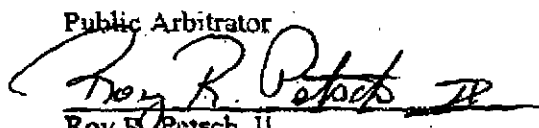
<u>Forum Fees</u>	= \$1,275.00
Balance Due NASD Regulation, Inc.	= \$1,275.00

All balances are due to NASD Regulation, Inc.

Dated: _____

Warren C. Kotzmann
Public Arbitrator, Presiding Chair

Patrick J. Halter
Public Arbitrator



Roy R. Petsch, II
Industry Arbitrator

3-28-00