

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Joseph E. Borsch,
Claimant

Vs.

Case Number: 00-00237
Hearing Site: Louisville, Kentucky

Banc One Securities Corporation and
Alan Stout,
Respondents.

REPRESENTATION OF PARTIES

Claimant Joseph E. Borsch ("Borsch") was represented by B. Frank Radmacher, III, Esquire, Louisville, Kentucky.

Respondents Banc One Securities Corporation ("Banc One") and Alan Stout ("Stout"), hereinafter collectively referred to as "Respondents" (and/or "Counterclaimants"), were represented by Elizabeth A. Jerdonek, Esquire, of Ulmer & Berne, LLP, Cleveland, Ohio.

CASE INFORMATION

The Statement of Claim was filed on or about January 18, 1999.
Claimant signed the Uniform Submission Agreement on September 8, 1999.

Respondents Banc One and Stout filed their Joint Answer and Counterclaim on or about July 24, 2000.
Ellen F. Stoutamire, Assistant Secretary of Respondent Banc One, signed the Uniform Submission Agreement on May 22, 2000.
Respondent Stout signed the Uniform Submission Agreement on May 22, 2000.

CASE SUMMARY

Claimant alleged the following in his Statement of Claim: breach of contract, breach of fiduciary duty and negligence. The allegations were related to transactions in MP3.Com stock.

In their Joint Answer and Counterclaim, Respondents denied the allegations asserted in the Statement of Claim and asserted the following affirmative defenses: failure to state a claim upon which relief can be granted and contributory or third-party negligence. Additionally, Respondents (and Counterclaimants) alleged the following cause of action in their Joint Answer and Counterclaim: breach of Margin Agreement.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 89,284.99
Attorney's Fees	unspecified
Other Costs	unspecified

Respondents (and Counterclaimants) Banc One and Stout requested that all claims against them be dismissed in their entirety. They also requested in their Joint Counterclaim:

Compensatory Damages	\$ 46,705.01
Interest	unspecified
Attorney's Fees	unspecified
Other Costs	unspecified

AWARD

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

1. Respondent Banc One Securities Corporation is solely liable for, and shall pay to Claimant, Joseph E. Borsch, **\$27,332.00** (Twenty-seven Thousand Three Hundred Thirty-two Dollars and No Cents) in compensatory damages;
2. All claims against Respondent Alan Stout are denied in their entirety. The Panel recommends the expungement of all reference to this arbitration from Respondent Alan Stout's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Stout must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. All claims asserted by Respondents Banc One and Stout in their Joint Counterclaim are denied in their entirety; and
4. Except as specified otherwise herein, each party shall bear its own costs and attorneys' fees.

Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 225
Counterclaim filing fee	= \$1,000

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is Banc One Securities Corporation.

Member surcharge	= \$1,000
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$1,500

Forum Fees and Assessments

The 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 conference with Panel x \$750	= \$ 750
Pre-hearing conference: October 25, 2000 1 session	

Three (3) Hearing sessions x \$750	= \$ 2,250
Hearing Dates: January 30, 2001 3 sessions	

Total Forum Fees	= \$ 3,000
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The Panel has assessed \$1,500 in Forum Fees solely to Respondent Banc One Securities Corporation. The Panel has assessed the remaining \$1,500 in Forum Fees solely to Claimant, Joseph E. Borsch.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 225
<u>Forum Fees</u>	= \$ 1,500
Total Fees	= \$ 1,725
<u>Less payments</u>	= \$ 975
Balance Due NASD Dispute Resolution, Inc.	= \$ 750

2. Respondent Banc One Securities Corporation be and hereby is solely liable for:


Member Fees	= \$ 3,100
<u>Forum Fees</u>	= \$ 1,500
Total Fees	= \$ 4,600
<u>Less Payments</u>	= \$ 3,550
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,050

3. Respondents Banc One Securities Corporation and Alan Stout be and hereby are jointly and severally liable for:

<u>Counterclaim Filing Fees</u>	= \$ 1,000
Total Fees	= \$ 1,000
<u>Less payments</u>	= \$ 1,000
Balance Due NASD Dispute Resolution, Inc.	= \$ 0

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures


Gordon F. Linke, Esq.
Non-Public Arbitrator, Presiding Chair

4/2/01
Signature Date

Leah M. Baik, Esq.
Public Arbitrator

Signature Date

David L. Gittleman, Esq.
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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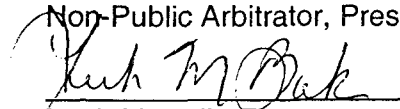
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Gordon F. Linke, Esq.
Non-Public Arbitrator, Presiding Chair



Leah M. Balk, Esq.
Public Arbitrator

Signature Date



Signature Date

David L. Gittleman, Esq.
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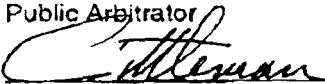
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Gordon F. Linke, Esq.
Non-Public Arbitrator, Presiding Chair

Signature Date

Leah M. Balk, Esq.
Public Arbitrator

Signature Date


David L. Gittleman, Esq.
Public Arbitrator

3/20/01
Signature Date

Date of Service (For NASD office use only)