

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Lee J. Twomey and Jason Twomey (Claimants) v. Banc of America Securities, LLC
(Respondent)

Case Number: 02-04778

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

Claimants, Lee J. Twomey ("L. Twomey") and Jason Twomey ("J. Twomey"), hereinafter collectively referred to as "Claimants": J. Allen Holland, Esq., Lynch, Brewer, Hoffman & Fink, LLP, Boston, MA.

Respondent, Banc of America Securities, LLC ("BAS"), hereinafter referred to as "Respondent": Joseph Baumgarten, Esq., Proskauer Rose, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: August 12, 2002.

Amended Statement of Claim filed on or about: October 24, 2003.

L. Twomey signed the Uniform Submission Agreement: August 9, 2002.

J. Twomey signed the Uniform Submission Agreement: August 9, 2002.

Statement of Answer filed by Respondent on or about: November 6, 2002.

Respondent signed the Uniform Submission Agreement: October 23, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; promissory estoppel; declaratory judgment; and fraudulent inducement.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In their initial Statement of Claim, Claimants requested on Counts I and II, that Respondent be ordered to pay Claimants all outstanding commissions and to continue to pay Claimants based on the commission structure set forth in Exhibit A of the Statement of Claim; on Counts III and V, that Respondent be ordered to pay Claimants all commissions they are entitled to under the structure set forth in Exhibit A of the

Statement of Claim; and on Count IV, that Claimants are entitled to declaratory relief against Respondent that they are entitled to be compensated as commissional employees and such other and further relief as the Court deems appropriate.

Respondent requested that the claims set forth in the Statement of Claim be denied in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing on October 23, 2003, Claimants' counsel stated, on the record, that Claimants amended their damages to \$7,394,240.00. Claimants further provided a post-hearing submission amending their damages.

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.

AWARD

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

1. Respondent is liable for and shall pay to L. Twomey compensatory damages in the amount of \$400,000.00 in lieu of a 2003 bonus and any other damages not specifically stated in this Award.
2. Respondent is liable for and shall pay to J. Twomey compensatory damages in the amount of \$100,000.00 in lieu of a 2003 bonus and any other damages not specifically stated in this Award.
3. The Panel awards no damages for future compensation.
4. Respondent is hereby enjoined as of the date of this Award from seeking any recovery or repayment of the Promissory Notes executed by L. Twomey and J. Twomey or the enforcement of any non-compete agreement between the parties.
5. 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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$600.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Banc of America Securities, LLC is a party.

Member surcharge = \$3,350.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,500.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: August 28, 2003 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00

Pre-hearing conference: May 27, 2003 1 session

Eight (8) Hearing sessions @ \$1,200.00 = \$ 9,600.00

Hearing Dates: October 20, 2003 2 sessions

October 21, 2003 2 sessions

October 23, 2003 2 sessions

October 24, 2003 2 sessions

Total Forum Fees = \$11,250.00

1. The Panel has assessed \$11,250.00 of the forum fees against Respondent.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 600.00

Total Fees = \$ 600.00

Less payments = \$1,575.00

Refund Due Claimants = \$ 975.00

2. Respondent is solely liable for:

Member Fees	= \$ 9,600.00
Forum Fees	= \$11,250.00
Total Fees	= \$20,850.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$13,850.00

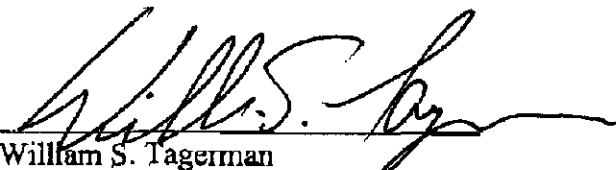
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

William S. Tagerman	-	Non-Public Arbitrator, Presiding Chair
John R. Levins, CMC	-	Non-Public Arbitrator
Frederick W. Keuthen, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



William S. Tagerman
Non-Public Arbitrator, Presiding Chairperson

11/3/03

Signature Date

John R. Levins, CMC
Non-Public Arbitrator

Signature Date

Frederick W. Keuthen, Esq.
Non-Public Arbitrator

Signature Date

November 14, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

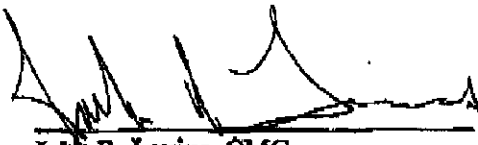
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Non-Public Arbitrator, Presiding Chairperson

Signature Date



John R. Levins, CMC
Non-Public Arbitrator

11/5/03

Signature Date

Frederick W. Keuthen, Esq.
Non-Public Arbitrator

Signature Date

November 14, 2003

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Signature Date

John R. Levins, CMC
Non-Public Arbitrator

Signature Date

Frederick W. Keuthen
Frederick W. Keuthen, Esq.
Non-Public Arbitrator

11/7/03
Signature Date

November 14, 2003

Date of Service (For NASD Dispute Resolution use only)