

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Alfredo Hernandez, Claimant v. Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc., Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez, Respondents

Case Number: 02-04788

Hearing Site: San Diego, California

Nature of the Dispute: Customer v. Members and Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Robert Blair Krueger, II, Esq.
The Krueger Group
La Jolla, California

Ronald A. Marron, Esq.
Law Offices of Ronald A. Marron
San Diego, California

For Respondents:

Michael J. Coffino, Esq.
Steefel Levitt & Weiss
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 7, 2002

Claimant's Uniform Submission Agreement signed: July 22, 2002

Joint Statement of Answer filed by Respondents: October 31, 2002

CASE SUMMARY

Claimant alleged failure to supervise, unsuitability, breach of fiduciary duty, fraud, negligence, deceit, misrepresentation, omission of material facts, violation of Section 10(b) of the Securities Exchange Act of 1934, and breach of the implied covenant of good faith and fair dealing. Claimant's allegations involved unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$2,800,000.00, lost opportunity costs, unspecified exemplary damages, pre-award and post-award interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On April 17, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On June 10, 2003, Respondents Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc., Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez's counsel signed a Waiver Agreement on behalf of Respondents expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Respondents Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc., Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez did not file with NASD Dispute Resolution, properly executed submission agreements; however, all said Respondents are required to submit to arbitration and, Respondents Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc., Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez having answered the claim, are bound by the determination of the Panel on all issues submitted.

On March 18, 2004, NASD Dispute Resolution received notice of settlement.

The Parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

STIPULATION

The Parties to this arbitration, by and through their respective counsel of record, hereby stipulate as follows:

WHEREAS, Claimant Alfredo Hernandez brought certain claims against Banc of America Investment Services, Inc., BA Investment Services, Inc., Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez in the above captioned-arbitration;

WHEREAS, Respondents have denied and continue to deny all material allegations of Claimant's claims;

WHEREAS, the parties entered into a Settlement Agreement and General Release (the "Settlement Agreement") regarding Claimant's claims against Respondents;

WHEREAS, pursuant to the Settlement Agreement, Claimant agreed to dismiss Respondents from this arbitration proceeding with prejudice;

WHEREAS, Respondents Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez did not make any monetary contribution to the settlement;

WHEREAS, Claimant desires that their complaints against Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez be expunged from their Form U4s, Form U5s, and any other NASD record.

AWARD

After considering the pleadings and the Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) The above-captioned arbitration is dismissed with prejudice.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Juan C. Moreno's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Juan C. Moreno must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Barry G. Brundage's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Barry G. Brundage must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

- 4) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Edmundo J. Jimenez's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Edmundo J. Jimenez must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code of Arbitration Procedure ("the Code"), the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

Adjournment Fees

The following adjournment fees are assessed:

March 15, 2004 – March 19, 2004	
Adjournment requested by Respondents	= \$ 1,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

Three (3) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session	= \$ 1,350.00
Pre-hearing conferences:	
November 10, 2003	1 session
February 13, 2004	1 session
February 20, 2004	1 session

Three (3) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 3,600.00
Pre-hearing conferences: September 3, 2003 1 session
 October 21, 2003 1 session
 January 23, 2004 1 session

Total Forum Fees = **\$ 4,950.00**

1. The Panel assessed \$3,075.00 of the forum fees to Claimant Alfredo Hernandez.
2. The Panel assessed \$1,875.000 of the forum fees jointly and severally to Respondents Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc., Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 3,075.00</u>
Total Fees	= \$ 3,575.00
<u>Less payments</u>	<u>= \$(1,700.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,875.00
2. Respondent Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc. is charged with the following fees and costs:

Member Fees	= \$ 8,550.50
<u>Less payments</u>	<u>= \$ (8,550.50)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents Banc of America Investment Services, Inc., successor in interest to BA Investment Services, Inc., Juan C. Moreno, Barry G. Brundage, and Edmundo J. Jimenez are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$ 1,875.00</u>
Balance Due NASD Dispute Resolution	= \$ 3,075.00

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

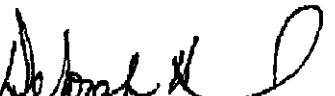
Parties' Signatures

Alfredo Hernandez
Claimant

Signature Date


Banc of America Investment Services, Inc.
Respondent

5 May 2004
Signature Date


BA Investment Services, Inc.
Respondent for BAI as
successor to BA Investment
Services, Inc.

5 May 2004
Signature Date

Juan C. Moreno
Respondent

Signature Date

Barry G. Brundage
Respondent

Signature Date

Edmundo J. Jimenez
Respondent

Signature Date

Parties' Signatures

Alfredo Hernandez
Claimant

Signature Date

Banc of America Investment Services, Inc.
Respondent

Signature Date

BA Investment Services, Inc.
Respondent

Signature Date



Juan C. Moreno
Respondent

5/4/2004

Signature Date

Barry G. Brundage
Respondent

Signature Date

Edmundo J. Jimenez
Respondent

Signature Date

Parties' Signatures

Alfredo Hernandez
Claimant

Signature Date

Banc of America Investment Services, Inc.
Respondent

Signature Date

BA Investment Services, Inc.
Respondent

Signature Date

Juan C. Moreno
Respondent

Signature Date


Barry G. Brundage
Respondent


Signature Date

Edmundo J. Jimenez
Respondent

Signature Date

Parties' Signatures

Alfredo Hernandez
Claimant

Signature Date

Banc of America Investment Services, Inc.
Respondent

Signature Date

BA Investment Services, Inc.
Respondent

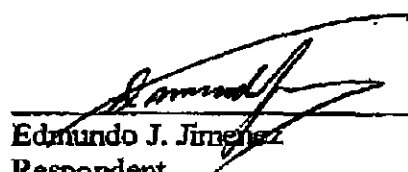
Signature Date

Juan C. Moreno
Respondent

Signature Date

Barry G. Brundage
Respondent

Signature Date



Edmundo J. Jimenez
Respondent

5/12/2004
Signature Date

Greta Glavis, Esq.
Dirk Metzger, Esq.
Richard M. Leigh

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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Greta Glavis
Greta Glavis, Esq.
Chair, Public Arbitrator

8/2/04
Signature Date

Dirk Metzger, Esq.
Public Arbitrator

Signature Date

Richard M. Leigh
Non-Public Arbitrator

Signature Date

8/26/04
Date of Service

ARBITRATION PANEL

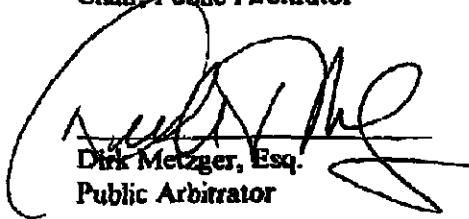
Greta Glavis, Esq.
Dirk Metzger, Esq.
Richard M. Leigh

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-
-

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Public Arbitrator
Non-Public Arbitrator

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Greta Glavis, Esq.
Chair, Public Arbitrator



Dirk Metzger, Esq.
Public Arbitrator

Signature Date



Signature Date

Richard M. Leigh
Non-Public Arbitrator

Signature Date



Date of Service

ARBITRATION PANEL

Greta Glavis, Esq.
Dirk Metzger, Esq.
Richard M. Leigh

-
-
-

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Greta Glavis, Esq.
Chair, Public Arbitrator

Signature Date

Dirk Metzger, Esq.
Public Arbitrator

Signature Date



Richard M. Leigh
Non-Public Arbitrator

8/2/04

Signature Date

8/26/04

Date of Service



COPY

March 17, 2004

17000

Ms. Jennine Schell
NASD Dispute Resolution, Inc.
300 South Grand Avenue, Suite 900
Los Angeles, CA 90071

Re: *Alfredo Hernandez v. Banc of America Investment Services, Inc., et al.*
NASD-DR Case No. 02-04788
Stipulation for Award

Dear Ms. Schell:

We represent Respondents in the above-captioned arbitration. On March 16, 2004, Respondents and Claimant successfully mediated the action and entered into a Settlement Agreement and Release. Accordingly, please forward the attached Stipulation for Award to the Panel for their signatures. The arbitration hearing and other pending motions that had been taken off-calendar indefinitely can now be cancelled. Thank you.

Please call with any questions.

Sincerely,

Scott D. Olson

Enclosure

cc: Robert Blair Krueger II, Esq.
Ron Marron, Esq.

17000:6382390.1

IN ARBITRATION BEFORE
THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between
ALFREDO HERNANDEZ,

Claimant,

v.

BANC OF AMERICA INVESTMENT
SERVICES, INC., BA INVESTMENTS
SERVICES, INC., JUAN MORENO,
BARRY BRUNDAGE and EDMUNDO
JIMENEZ,

Respondents.

Arbitration Case No. 02-4788

STIPULATION FOR AWARD

THE PARTIES TO THIS ARBITRATION, BY AND THROUGH THEIR
RESPECTIVE COUNSEL OF RECORD, HEREBY STIPULATE AS FOLLOWS:

WHEREAS, Claimant Alfredo Hernandez ("Claimant") brought certain claims
against Respondents Banc of America Investment Services, Inc., BA Investments Services, Inc.,
Juan Moreno, Barry Brundage and Edmundo Jimenez (collectively "Respondents") in the above-
captioned arbitration;

WHEREAS, Respondents have denied and continue to deny all material
allegations of Claimant's claims;

WHEREAS, the parties entered into a Settlement Agreement and General Release
(the "Settlement Agreement") regarding Claimant's claims against Respondents;

WHEREAS, pursuant to the Settlement Agreement, Claimant agreed to dismiss Respondents from this arbitration proceeding with prejudice;

WHEREAS, Juan Moreno, Barry Brundage and Edmundo Jimenez did not make any monetary contribution to the settlement;

WHEREAS, Claimant desires that their complaints against Juan Moreno, Barry Brundage and Edmundo Jimenez be expunged from their Form U4s, Form U5s and any other NASD reporting documents.

NOW THEREFORE, Claimant and Respondents agree and jointly request that the Panel issue an Award as follows:

1. Dismissing the above-captioned arbitration with prejudice;
2. Recommending that all references to Claimant's claim and to the above captioned arbitration be expunged from Juan Moreno, Barry Brundage and Edmundo Jimenez's registration records maintained by NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Each side will bear its own attorneys' fees, forum fees, and costs.

IT IS SO STIPULATED AND REQUESTED OF THE PANEL.

Date: March 16, 2004

STEEFEL, LEVITT & WEISS
A Professional Corporation

By: 

Michael J. Coffino

Attorneys for Respondents
BANC OF AMERICA INVESTMENT
SERVICES, INC., BA INVESTMENTS
SERVICES, INC., JUAN MORENO, BARRY
BRUNDAGE and EDMUNDO JIMENEZ

Date: March 16, 2004

The Krueger Group, LLP

By: 

Robert Blair Krueger II

Attorneys for Claimant
ALFREDO HERNANDEZ

IT IS SO ORDERED.

8/2/04

Date: March _____, 2004

Date: March _____, 2004

Date: March _____, 2004

Greta Glavis
Greta Glavis, Chair

Richard M. Leigh

Dirk Metzger

STIPULATION FOR AWARD
17000-10320441

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Stipulated Award
Page 7 of 7

IT IS SO ORDERED.

Date: March _____, 2004

Date: March 02, 2004

Date: March _____, 2004

Greta Glavia, Chair


Richard M. Leigh

Dirk Metzger

IT IS SO ORDERED.

Date: March _____, 2004

Date: March _____, 2004

July
Date: March 31, 2004

Greta Glavis, Chair

Richard M. Leigh

[Signature]

Dirk Metzger

STIPULATION FOR AWARD
17000-0312044.1

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