

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Morton E. Harris

and

Case Number: 02-06056
Hearing Site: Troy, Michigan

Names of Respondents

Banc One Capital Markets, Inc. and
James G. Craven

NATURE OF DISPUTE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Morton E. Harris ("Claimant") was represented by Andrew J. Abrams, Esq., Sugar, Friedberg & Felsenthal, Chicago, Illinois.

Bank One Capital Markets, Inc. ("Bank One") and James G. Craven ("Craven"), hereinafter referred to as "Respondents," were represented by Kenneth F. Berg, Esq., Ulmer & Berne, LLC, Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about October 2, 2002. The Submission Agreement of Claimant Morton E. Harris was signed on or about October 2, 2002.

Statement of Answer was filed jointly by Respondents Bank One and Craven on or about December 17, 2002. The Submission Agreement of Respondent Banc One was signed on or about December 12, 2002, by Denise M. Higgins, First Vice President and Attorney. The Submission Agreement of Respondent Craven was signed on or about December 6, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: federal securities fraud, Michigan securities fraud, breach of fiduciary duty, and common law fraud. The causes of action relate to the Claimant's allegations that Respondents purchased bonds, issued by non-Michigan issuers, without full disclosure to Claimant. The bonds at issue included

CHICAGO IL O HARE INT'L ARPT SPL FAC REF UNITED AIRLINES 6.300, 05/01/2016, MONTGOMERY CNTY PA HIGHER ED & HEALTH AUTH HOSP MED CTR 6.250, 07/01/2006, MONTGOMERY CNTY PA HIGHER ED & HEALTH AUTH HOSP MED CTR 6.375, 07/01/2007, and MONTGOMERY CNTY PA HIGHER ED & HEALTH AUTH HOSP MED CTR 6.600, 07/01/2010. Claimant asserted that Respondents did not disclose that the bonds did not have a credit rating of AA or AAA, that one bond did not mature until 2016, and that the O'Hare Airport bonds were dependent on United Airlines' credit. Claimant asserted that the bonds at issue did not meet with his stated investment objectives.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant has failed to state a claim for federal securities fraud or common law fraud because the investments were not unsuitable; Respondents did not make any misrepresentations, and Claimant's losses were not proximately caused by any act or omission of Respondents; Claimant has failed to state a claim for breach of fiduciary duty because under the law and the agreement of the parties, Respondents did not owe him such a duty; Claimant is estopped from asserting these claims because he failed to object to the purchase of the bonds that are the subject of this dispute within a reasonable time; Claimant ratified the purchases of the bonds; and Claimant failed to mitigate his damages.

RELIEF REQUESTED

Claimant requested an award in the amount of \$2,000,000.00 or whatever greater amount or other relief the panel deems appropriate, plus punitive damages, interest, costs, and attorney fees.

Respondents requested that the claims asserted against them be dismissed in their entirety.

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 NASD Dispute Resolution ("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.) Respondents, Banc One Capital Markets, Inc., and James G. Craven, are jointly and severally liable for and shall pay to Claimant, Morton E. Harris, the sum of \$449,480.00 in compensatory damages;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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 = \$ 500.00

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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Banc One Capital Markets, Inc.

Member surcharge = \$ 2,800.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 5,000.00

Adjournment Fees

Adjournments requested during these proceedings:

November 5-6, 2003, adjournment by Claimant = \$ 1,200.00

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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00 = \$ 900.00
Pre-hearing conferences: January 22, 2004 1 session
January 30, 2004 1 session

Five (5) Hearing sessions x \$1,200.00 = \$6,000.00

Hearing Dates:	April 27, 2004	2 sessions
	April 28, 2004	2 sessions
	May 14, 2004	1 session

Total Forum Fees = \$ 6,900.00

The Arbitration Panel has assessed \$3,450.00 of the forum fees to Morton E. Harris.

The Arbitration Panel has assessed \$3,450.00 of the forum fees jointly and severally to Banc One Capital Markets, Inc. and James G. Craven.

Fee Summary

Claimant, Morton E. Harris, is liable for:

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 3,450.00
<hr/> Total Fees	<hr/> = \$ 5,150.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 3,450.00

Respondent, Banc One Capital Markets, Inc., is liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 5,000.00

Respondents, Banc One Capital Markets, Inc. and James G. Craven, are jointly and severally liable for:

Forum Fees	= \$ 3,450.00
Total Fees	= \$ 3,450.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,450.00

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

ARBITRATION PANEL

Marvin I. Horowitz, Esq. - Public Arbitrator, Presiding Chair
Harvey Frank - Public Arbitrator
Gregory M. Gendron - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Marvin I. Horowitz, Esq.
Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair

05/18/04
Signature Date

/s/ Harvey Frank
Harvey Frank
Public Arbitrator

05/15/05
Signature Date

/s/ Gregory M. Gendron
Gregory M. Gendron
Non-Public Arbitrator

05/14/04
Signature Date

05/18/04
Date of Service (For NASD office use only)

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ARBITRATION PANEL

Marvin I. Horowitz, Esq. - Public Arbitrator, Presiding Chair
Harvey Frank - Public Arbitrator
Gregory M. Gendron - Non-Public Arbitrator

Concurring Arbitrators:

Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Harvey Frank

Harvey Frank
Public Arbitrator

5/15/04

Signature Date

Gregory M. Gendron
Non-Public Arbitrator

Signature Date


Date of Service (For NASD office use only)

NASD Dispute Resolution
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ARBITRATION PANEL

Marvin I. Horowitz, Esq. - Public Arbitrator, Presiding Chair
Harvey Frank - Public Arbitrator
Gregory M. Gendron - Non-Public Arbitrator

Concurring Arbitrators:



Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair



Signature Date

Harvey Frank
Public Arbitrator

Signature Date

Gregory M. Gendron
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 02-06055
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ARBITRATION PANEL

Marvin I. Horowitz, Esq. - Public Arbitrator, Presiding Chair
Harvey Frank - Public Arbitrator
Gregory M. Gendron - Non-Public Arbitrator

Concurring Arbitrators:

Marvin I. Horowitz, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Harvey Frank
Public Arbitrator

Signature Date



Gregory M. Gendron
Non-Public Arbitrator

5-14-04

Signature Date

Date of Service (For NASD office use only)