

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
George Stocker

Case Number: 02-06283

Names of the Respondents:  
Banc One Securities Corporation

Hearing Site: Chicago, Illinois

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**REPRESENTATION OF PARTIES**

Claimant George Stocker ("Stocker") hereinafter referred to as "Claimant": Alan Block, Esq., of Block & Landsman, located in Chicago, Illinois.

Respondent Banc One Securities ("Banc One") hereinafter referred to as "Respondent": Kenneth F. Berg, Esq., of Ulmer & Berne LLC, located in Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed: October 21, 2002.

Claimant signed the Uniform Submission Agreement: October 16, 2002.

Respondent Banc One filed a Statement of Answer on December 26, 2002.

Respondent Banc One signed the Uniform Submission Agreement on December 26, 2002.

**CASE SUMMARY**

Claimants asserted the following causes of action:

1. Fraud;
2. Breach of Fiduciary duty; and,
3. Negligence;

Claimant's causes of action relate to transactions involving growth and technology mutual funds.

Unless specifically admitted its Statement of Answer, Respondent Banc One denied the allegations made in the Statement of Claim and asserted the following affirmative defenses:

1. Claimant was on notice of, understood and assumed the risks associated with his investment transactions;
2. Claimant authorized all transactions;
3. Claimant ratified all transactions that took place in his account and therefore, is barred from recovering any losses sustained;
4. Claimants failed to mitigate his damages;

5. Claimant waived his right to assert these causes of action by accepting the profits of these investments.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 100,000.00
Punitive Damages	\$ Unspecified
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

Respondents requested that the claims against it be dismissed in their entirety and that Claimant's pay all costs and attorneys fees.

### **AWARD**

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

1. Claimant George Stocker's Claims against Respondent Banc One Securities Corporation are dismissed in their entirety;
2. All costs not specifically enumerated herein shall be borne by the party who incurred them; and,
3. Any and all relief not specifically addressed herein, including punitive damages, 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 = \$225.00

#### **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. Accordingly, the Respondent Banc One Securities Corporation is assessed the following fees:

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00

**Adjournment Fees**

Adjournments granted during these proceedings :

September 27, 28 &amp; 29 2003, adjournment by Respondent. = \$ 750 (waived)

**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 the Panel @ \$750.00		= \$ 750.00
Pre-hearing conference: May 1, 2002	1 session	
(4) Hearing sessions @ \$ 750.00		= \$ 3,000.00
Hearing Dates: September 8, 2003	2 sessions	
September 9, 2003	2 sessions	
<b>Total Forum Fees</b>		<b>= \$ 3,750.00</b>

The Panel has assessed \$1,875.00 of the forum fees to Claimant George Stoker.

The Panel has assessed \$1,875.00 of the forum fees to Respondent Banc One Securities

**EEE SUMMARY**

Claimant is liable for:

Filing Fees	= \$ 225.00
<u>Forum Fees</u>	<u>= \$ 1,875.00</u>
Total Fees	= \$ 2,100.00
<u>Less Payments</u>	<u>= \$ 975.00</u>
Balance Due to NASD Dispute Resolution	= \$ 1,125.00

Respondent is liable for:

Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	<u>= \$ 1,875.00</u>
Total fees	= \$ 5,425.00
<u>Less payments</u>	<u>= \$ 6,750.00</u>
Balance Refunded by NASD Dispute Resolution	= \$ 1,325.00

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

**Arbitration Panel**

Robert S. Schwartz, Esq.- Public Arbitrator, Presiding Chairperson

Robert B. Schmidt – Public Arbitrator

Lynn Hirschfeld Brahlin, J.D.-Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Robert S. Schwartz, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

Robert B. Schmidt,  
Public Arbitrator

Signature Date

Lynn Hirschfeld Brahlin  
Non-Public Arbitrator

Signature Date

*Oct. 10, 2003*

Date of Service (For NASD Dispute Resolution office use only)

**Arbitration Panel**

Robert S. Schwartz, Esq.- Public Arbitrator, Presiding Chairperson

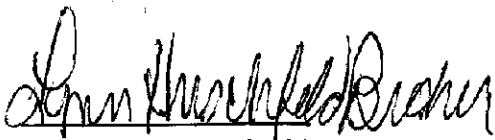
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Robert S. Schwartz, Esq.  
Public Arbitrator, Presiding Chair

Signature Date



Lynn Hirschfeld Brahin, JD  
Public Arbitrator

Signature Date

10/2/03

Robert B. Schmidt  
Non-Public Arbitrator

Signature Date

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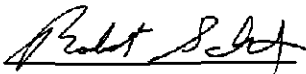
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