

## **NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

**SHEILA MYRCIK,**

**Claimant,**

**v.**

**BANC ONE SECURITIES  
CORPORATION, DAVID DOSIK,  
EDWARD COTTRELL, DEREK S.  
CHATTERTON and DAVID E.  
MILLER,**

**Respondents.**

**NASD-DR Case No.: 02-6702**

### **REPRESENTATION OF PARTIES**

Sheila Myrcik (hereinafter referred to as "Claimant") was represented by Martin Q. Ryan, Esq. of Mora, Baugh, Waitzman & Unger, L.L.C. located in Chicago, Illinois.

Banc One Securities Corporation (hereinafter referred to as "Banc One"), David Dosik (hereinafter referred to as "Dosik"), Edward Cottrell (hereinafter referred to as "Cottrell"), Derek S. Chatterton (hereinafter referred to as "Chatterton") and David E. Miller (hereinafter referred to as "Miller") were represented by Ken Berg, Esq. of Ulmer & Berne, L.L.C. located in Chicago, Illinois.

### **CASE INFORMATION**

Claimant filed a Statement of Claim and her Uniform Submission Agreement on or about November 5, 2002.

Respondents filed an Answer to the Statement of Claim with Affirmative Defenses on or about January 13, 2003.

### **CASE SUMMARY**

Claimant asserted the following causes of action: breach of contractual, fiduciary and common law duties; fraud and misrepresentation; negligence; violation of federal securities law; Illinois Securities Laws Act of 1953, and the Illinois Consumer Fraud and Deceptive Business Practices Act. The causes of action related to the purchase of Class C shares of various mutual funds. Respondents denied the allegations of the Statement of Claim and affirmatively alleged that Claimant executed documents confirming that Claimant desired to invest in Class C shares of various mutual funds.

## **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 80,000.00
Punitive Damages	\$ unspecified
Interest	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Costs	\$ unspecified
Other Monetary/Non-Monetary Relief if any:	\$ unspecified

Respondents requested that the claims asserted be denied and dismissed in their entirety.

## **OTHER ISSUES CONSIDERED AND DECIDED**

In accordance with Rule 10336 of the NASD Code of Arbitration Procedure (hereinafter the "Code"), the parties stipulated and agreed that this matter would be heard by a single arbitrator, the Panel Chairperson, after the initial pre-hearing conference and that any award would be entered by a single arbitrator, the Panel Chairperson (hereinafter referred to as the "Panel"). Upon review of the file, the Panel determined that Respondents have been properly served with the Statement of Claim and received due notice of the proceedings. Each Respondent filed with NASD Dispute Resolution, Inc. an Answer to the Statement of Claim. Banc One is a member of the NASD and the individual Respondents are associated persons. Each party submitted to NASD Arbitration and is bound by the ruling of the Panel.

Claimant voluntarily dismissed the claims asserted against Edward G. Cottrell, Derek S. Chatterton and David E. Miller prior to hearing. Thereafter, the parties informed NASD Dispute Resolution, Inc. that they had entered into a settlement agreement with respect to the claims against Banc One and David Dosik. The parties subsequently filed a Stipulation and Notice of Dismissal with NASD Dispute Resolution, Inc., which requested that the undersigned arbitrator enter an order and/or award expunging any references to this case and matter from the NASD Central Registration Depository ("CRD") record of Edward G. Cottrell, Derek S. Chatterton and David E. Miller.

The parties have stipulated and 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 and the Stipulation and Notice of Dismissal, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of any references to the above-captioned arbitration from Edward G. Cottrell registration records maintained by the CRD, with the understanding that, pursuant to NASD Notice to Members 99-09, confirmation of this Award must be obtained from a court of competent jurisdiction before the CRD will execute the expungement directives.
2. The Panel recommends the expungement of any references to the above-captioned arbitration from Derek S. Chatterton registration records maintained by the CRD, with the understanding that, pursuant to NASD Notice to Members 99-09, confirmation of this Award must be obtained from a court of competent jurisdiction before the CRD will execute the expungement directives.
3. The Panel recommends the expungement of any references to the above-captioned arbitration from David E. Miller registration records maintained by the CRD, with the understanding that, pursuant to NASD Notice to Members 99-09, confirmation of this Award must be obtained from a court of competent jurisdiction before the CRD will execute the expungement directives.
4. All claims, including attorneys' fees and costs, are denied and dismissed with prejudice and each party shall bear their respective costs, including attorneys' fees.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee=	\$ 225.00
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#### **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 a party. Banc One Securities Corporation is assessed with the following fees:

Banc One Securities Corporation:	
Member surcharge=	\$1,100.00
Hearing deposit=	\$1,700.00

*Process fee*

Pre-Hearing processing fee=	\$ 750.00
Total Member Fees=	\$3,550.00

### **Adjournment Fees**

No adjournments were requested during these proceedings.

### **Forum Fees and Assessments**

The Panel has assessed 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:

Pre-hearing conferences: August 18, 2003	\$750.00
Total Forum Fees=	\$750.00

The Panel has assessed forum fees of \$375.00 to Claimant.

The Panel has assessed forum fees of \$375.00 to Banc One Securities Corporation and David Dosik, jointly and severally.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those services provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters and security.

No administrative costs were incurred during these proceedings.

### **FEE SUMMARY**

- Claimant Sheila Myrcik is solely liable for:

Initial Filing Fee=	\$225.00
Forum Fees=	\$375.00
Total Fees=	\$600.00
Less payments=	\$975.00
Balance Due Claimant=	\$375.00
- Banc One Securities is solely liable for:

Member Fees=	\$3,550.00
Total Member Fees=	\$3,550.00
Less payments=	\$3,550.00
Balance Due NASD Dispute Resolution, Inc.=	\$ 0.00
- Banc One Securities and David Dosik are jointly and severally liable for:

Forum Fees	\$375.00
Total Forum Fees	\$375.00
Less Payments	0.00
Balance Due NASD Dispute Resolution, Inc. =	\$375.00

4. Respondents Cottrell, Chatterton and Miller are not assessed with any fees.

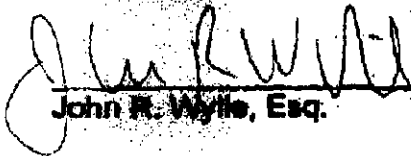
All balances due are due upon receipt of this Award and payable directly to NASD Dispute Resolution, Inc. All balances due to Claimant shall be refunded to counsel for Claimant for the benefit of Claimant to NASD Dispute Resolution, Inc.

### ARBITRATION PANEL

John R. Wylie, Esq.

Public Arbitrator, Single Arbitrator Panel

Arbitrator Signature

  
John R. Wylie, Esq.

Date

5-28-04

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