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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Banc One Securities Corporation

Case Number: 02-07710

Name of the Respondent  
James W. Langston, Jr.

Hearing Site: New Orleans, LA

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

For Banc One Securities Corporation ("BOSC"), hereinafter referred to as "Claimant": Matthew J. Morelli, Esq., Ulmer & Berne LLP, Cleveland, OH.

For James W. Langston, Jr. ("Langston"), hereinafter referred to as "Respondent": Cynthia L. Sternberg, Esq., Metairie, LA.

**CASE INFORMATION**

Statement of Claim filed on or about: December 20, 2002.

Claimant signed the Uniform Submission Agreement: December 18, 2002.

Statement of Answer and Counterclaim filed by Respondent on or about: February 26, 2003.

Respondent signed the Uniform Submission Agreement: February 18, 2003.

Claimant's Answer to Counterclaim filed on or about: March 17, 2003.

**CASE SUMMARY**

Claimant asserted that Respondent breached the parties' Payroll Deduction Authorization Agreement ("PDA"). The cause of action relates to Respondent's alleged failure to repay sums due Claimant pursuant to the PDA.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim. In his Counterclaim, Respondent asserted the following causes of action: breach of contract; rescission; intentional and/or negligent infliction of emotional distress; fraud; defamation; and, the breach of several state and federal laws related to privacy. The causes of action relate to Respondent's employment with Claimant and the execution of the PDA.

Unless specifically admitted in its Answer to the Counterclaim, Claimant denied the allegations made in Respondent's Counterclaim.

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$80,115.56, pre- and post-judgment interest, costs,

attorneys' fees, dismissal of Respondent's Counterclaim, and such further relief as the undersigned arbitrators (the "Panel") deemed proper.

Respondent requested dismissal of the Statement of Claim. In his Counterclaim, Respondent requested compensatory damages of \$133,788.48, rescission of the PDA, payment of back wages, damages for mental anguish, humiliation, embarrassment and injury, lost wages, costs, interest, attorneys' fees, and all other damages to which Respondent is entitled under the law and equity.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On or about November 14, 2003, the parties informed NASD Dispute Resolution that they had fully and finally settled all claims by and between them with each party denying liability to the other.

On or about May 4, 2004, the parties submitted a proposed Stipulated Award ("proposed Stipulated Award") to the Panel for its consideration and requested that it be entered by the Panel.

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.

### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Langston shall pay Claimant BOSC compensatory damages in the amount of \$65,000.00.
2. The parties agree that no execution on this Award shall occur and the Award shall be deemed satisfied, provided that Respondent pays BOSC \$50,000.00 no later than May 17, 2004 in available lawful money of the United States to Banc One Securities Corporation c/o Matthew J. Morelli, Esq., Ulmer & Berne LLP, 1300 East Ninth Street, Suite 900, Cleveland, Ohio 44114, or at such other place or entity as BOSC may designate. In the event Respondent fails to make payment under this paragraph 2 (an "Event of Default"), then the entire Award amount of \$65,000.00 shall at once be due and payable to BOSC, which amount shall bear interest at the rate of 10% per annum from the date on which the Event of Default occurred. Respondent shall indemnify BOSC from all costs and expenses (including reasonable attorneys' fees) incurred by BOSC in enforcement of this Award upon the occurrence of an Event of Default.
3. Respondent agrees that BOSC may immediately confirm the judgment in the amount set forth in paragraph 1 in the State of Louisiana or any other state. Respondent will not contest or object to BOSC's request to confirm this Award, and will cooperate to the extent necessary to confirm this Award, including, but not limited to, executing the filings necessary to obtain confirmation.
4. The NASD forum fees and assessments will be divided equally between the parties as set forth below and except upon an Event of Default as provided in paragraph 2 above, all of the costs and expenses, including attorneys' fees, shall be borne by the respective parties.

5. BOSC hereby releases, settles, cancels, discharges and acknowledges to be fully satisfied any and all complaints, claims, demands, rights and causes of action of every kind, nature and description whatsoever, whether currently known or unknown, suspected or unsuspected, which it may now or hereafter may have or assert against Respondent arising or resulting from or in any manner connected with the claims, events, agreements or injuries, losses and damages which were alleged or could have been alleged in the arbitration.

6. Respondent hereby releases, settles, cancels, discharges and acknowledges to be fully satisfied any and all complaints, claims, demands, rights and causes of action of every kind, nature and description whatsoever, whether currently known or unknown, suspected or unsuspected, which it may now or hereafter may have or assert against BOSC arising or resulting from or in any manner connected with the claims, events, agreements or injuries, losses and damages which were alleged or could have been alleged in the arbitration.

7. Notwithstanding the foregoing, the releases in paragraphs 5 and 6 do not apply; (i) to customer complaints; (ii) to compliance or regulatory matters; (iii) to claims initiated by any third parties; (iv) to the enforcement of the terms of this Award; and, (v) to any other matter between BOSC and Respondent not released herein.

8. Any and all relief not specifically addressed herein is denied in its entirety and dismissed, with prejudice.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$1,000.00
Counterclaim filing fee	= \$ 300.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Claimant is a member firm and a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

**Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No Three-Day Cancellation Fees were incurred in this matter.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were assessed during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: September 11, 2003 1 session	

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Total Forum Fees	= \$1,125.00
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The Panel has assessed \$562.50 of the forum fees to Claimant.

The Panel has assessed \$562.50 of the forum fees to Respondent.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$3,550.00
Forum Fees	= \$ 562.50
Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code	= \$ 187.50
Total Fees	= \$5,300.00
Less payments	= \$5,300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code	= \$ 562.50
Forum Fees	= \$ 562.50
<u>Administrative Costs</u>	= \$ 15.00
Total Fees	= \$1,440.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,440.00

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

**ARBITRATION PANEL**

Robert E. Graves	-	Non-Public Arbitrator, Presiding Chairperson
Robert J. Eitel	-	Non-Public Arbitrator
Dale A. Kaliszeski	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Robert E. Graves  
Non-Public Arbitrator, Presiding Chairperson

Signature Date

/s/  
Robert J. Eitel  
Non-Public Arbitrator

Signature Date

/s/  
Dale A. Kaliszeski  
Non-Public Arbitrator

Signature Date

December 6, 2004  
Date of Service (For NASD Dispute Resolution office use only)

Respondent is solely liable for:

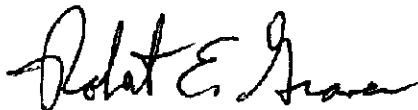
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Robert E. Graves  
Non-Public Arbitrator, Presiding Chairperson

11/28/04  
Signature Date

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Robert J. Eitel  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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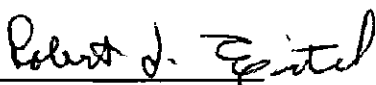
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Non-Public Arbitrator, Presiding Chairperson

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Signature Date

  
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11-27-04  
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Signature Date

  
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Non-Public Arbitrator

11-30-04  
Signature Date

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