

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Rita Metzger

vs.

03-01679

Milwaukee, Wisconsin

Name of Respondent

Banc One Securities, Inc.

Nature of the Dispute: Claimant vs. Member.

REPRESENTATION OF PARTIES

Rita Metzger, ("**Claimant**"), was represented by Stephen S. Berkeley, Esq., of Shaheen, Novoselsky, Staat & Filipowski, located in Chicago, Illinois.

Banc One Securities, Inc., ("**Respondent**"), was represented by Kenneth F. Berg, Esq., Ulmer & Berne LLC, located in Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or March 10, 2003. Submission Agreement of Claimant was signed on February 26, 2003.

Statement of Answer was filed by Respondent on May 1, 2003. Submission Agreement of Respondent was signed on April 22, 2003.

CASE SUMMARY

Claimant alleged that Respondent, Banc One Securities, Inc., made unsuitable recommendations regarding securities transactions. As a result of these recommendations she was exposed to risks and suffered losses to her account. Claimant is alleging violations of Federal Securities laws; Wisconsin Securities Uniform law violations; violations of Wisconsin's Consumer Protection laws; breach of fiduciary duty; breach of contract; negligence; control person liability; failure to supervise; and respondeat superior. Claimant's causes of action relate to her investments in a Putnam Voyager; Putnam Health, Putnam OTC, Putnam International Growth, One Group Equity Index; One Group Large Cap Growth; and Kemper Technology.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated as follows: Claimant wanted to change her investment objective to moderate growth; the

risks/rewards and charges of these investments were fully disclosed to Ms. Metzger; and Respondent made the appropriate adjustments to Claimant's portfolio. Respondent further stated that, as was emphasized repeatedly in the written disclosures she signed, Banc One is not a guarantor of Claimant's investments.

RELIEF REQUESTED

Claimant requested an award in the amount of \$90,000.00.

Respondent requested that the claims asserted be denied in their entirety and that they be awarded their costs and attorneys' fees.

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 remains on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant, Rita Metzger's claims against Respondent Banc One Securities Inc., are dismissed in their entirety with prejudice;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice; and,
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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 event giving rise to the dispute. In this matter, the member firm is Banc One Securities, Inc.

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

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, 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 Panel x \$750.00 | | = \$ 750.00 |
| Pre-hearing conference: October 27, 2003 | 1 session | |
| Six (6) Hearing sessions x \$750.00 | | = \$ 4,500.00 |
| Hearing Dates: October 19, 2004 | 2 sessions | |
| October 20, 2004 | 2 sessions | |
| October 21, 2004 | 2 sessions | |
| Total Forum Fees | | = \$5,250.00 |

The Arbitration Panel has assessed \$ 2,625.00 of the forum fees to Rita Metzger.

The Arbitration Panel has assessed \$ 2,625.00 of the forum fees to Banc One Securities Inc.

Fee Summary

Claimant, Rita Metzger, shall be and hereby is liable for:

| | | |
|-------------------------------------|------|-----------------|
| Initial Filing Fee | = \$ | 225.00 |
| <u>Forum Fees</u> | = \$ | <u>2,625.00</u> |
| Total Fees | = \$ | 2,850.00 |
| <u>Less payments</u> | = \$ | <u>-975.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 1,875.00 |

Respondent, Banc One Securities, Inc, shall be and hereby is liable for:

| | | |
|-------------------------------------|------|------------------|
| Member Fees | = \$ | 3,550.00 |
| <u>Forum Fees</u> | = \$ | <u>2,625.00</u> |
| Total Fees | = \$ | 6,175.00 |
| <u>Less payments</u> | = \$ | <u>-3,550.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 2,625.00 |

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Larry Carlson, Esq. - Public Arbitrator, Presiding Chair
Ewald L. Moerke, Jr. - Public Arbitrator
John Demetropoulos - Non-Public Arbitrator

Concurring Arbitrators:

Larry Carlson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Ewald L. Moerke, Jr.
Public Arbitrator

Signature Date

John Demetropoulos
Non-Public Arbitrator

Signature Date

Date of service by NASD Dispute Resolution November 10, 2004

NASD Dispute Resolution,
Arbitration No. 03-01679
Award Page 4 of 4

Respondent, Banc One Securities, Inc, shall be and hereby is liable for:

| | | |
|-------------------------------------|------|------------------|
| Member Fees | = \$ | 3,550.00 |
| <u>Forum Fees</u> | = \$ | <u>2,625.00</u> |
| Total Fees | = \$ | 6,175.00 |
| <u>Less payments</u> | = \$ | <u>-3,550.00</u> |
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Ewald L. Moerke, Jr. - Public Arbitrator
John Demetropoulos - Non-Public Arbitrator

Concurring Arbitrators:

Larry Carlson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Ewald L. Moerke, Jr.
Public Arbitrator

Signature Date



John Demetropoulos
Non-Public Arbitrator

11-3-04

Signature Date

Date of service by NASD Dispute Resolution _____

NASD Dispute Resolution,
Arbitration No. 03-01679
Award Page 4 of 4

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Ewald L. Moerke, Jr. - Public Arbitrator
John Demetropoulos - Non-Public Arbitrator

Concurring Arbitrators:

Larry Carlson, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Ewald L. Moerke, Jr.
Public Arbitrator

11-4-04

Signature Date

John Demetropoulos
Non-Public Arbitrator

Signature Date

Date of service by NASD Dispute Resolution _____

NASD Dispute Resolution,
Arbitration No. 03-01679
Award Page 4 of 4

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| Total Fees | = \$ | 6,175.00 |
| <u>Less payments</u> | <u>= \$</u> | <u>-3,550.00</u> |
| Balance Due NASD Dispute Resolution | = \$ | 2,625.00 |

All balances are due to NASD Dispute Resolution

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Ewald L. Moerke, Jr. - Public Arbitrator
John Demetropoulos - Non-Public Arbitrator

Concurring Arbitrators:


Larry Carlson, Esq.
Public Arbitrator, Presiding Chair

4 NOV 04
Signature Date

Ewald L. Moerke, Jr.
Public Arbitrator

Signature Date

John Demetropoulos
Non-Public Arbitrator

Signature Date

Date of service by NASD Dispute Resolution _____