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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Eric Todd Weinsier

Case Number: 03-02907

Name of the Respondent  
Banc of America Investment Services, Inc.

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

For Eric Todd Weinsier, hereinafter referred to as "Claimant": Ann M. Boyle, Esq., West Palm Beach, FL.

For Banc of America Investment Services, Inc. ("BOA"), hereinafter referred to as "Respondent": Peter W. Homer, Esq., Homer, Bonner & Delgado, P.A., Miami, FL.

**CASE INFORMATION**

Statement of Claim filed on or about: April 16, 2003.

Amended Statement of Claim filed on or about: July 16, 2003.

Claimant signed the Uniform Submission Agreement: April 10, 2003.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: June 24, 2003.

Statement of Answer and Motion to Dismiss Claimant's Amended Statement of Claim filed by Respondent on or about: August 4, 2003.

Claimant's Response to Respondent's Motion to Dismiss filed on or about: September 3, 2003.

Respondent's Reply in Support of Motion to Dismiss filed on or about: September 19, 2003.

Respondent BOA signed the Uniform Submission Agreement: June 17, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: defamation; libel; negligence; and, breach of implied duty to exercise reasonable care. The causes of action relate to the cessation of Claimant's employment with Respondent.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and Amended Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$20,000.00, punitive damages of \$10,000.00, attorneys' fees, costs, preliminary and permanent injunctive relief, expungement of vague and defamatory statements made by Respondent on Claimant's Form U-5, a public apology for, and

retraction of, said statements, and such further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested dismissal of the Statement of Claim and authorization to go to a court of competent jurisdiction to determine entitlement to, and amount of, attorneys' fees and costs in accordance with Florida States section 57.105.

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

The parties 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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's Statement of Claim is denied and the Panel unanimously rules in favor of Respondent.

Each party shall bear its own attorneys' fees.

Respondent's claim for attorneys' fees pursuant to Florida Statutes section 57.105 is denied.

Any and all claims for relief not specifically addressed herein, including Claimant's claims for punitive damages, injunctive relief, and an expungement, are denied.

### **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	= \$ 150.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent is a member firm and a party.

Member surcharge	= \$ 600.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,350.00

#### **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.

**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 a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: December 8, 2003 1 session	
One (1) Pre-hearing session with the Panel @ \$600.00	= \$ 600.00
Pre-hearing conference: October 8, 2003 1 session	
Four (4) Hearing sessions @ \$600.00	= \$2,400.00
Hearing Dates: February 12, 2004 2 sessions	
February 13, 2004 2 sessions	
Total Forum Fees	= \$3,450.00

The Panel has assessed the total forum fees of \$3,450.00 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	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 2,350.00
Forum Fees	= \$ 3,450.00
Total Fees	= \$ 5,800.00
Less payments	= \$ 2,350.00
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**

J. Guillermo Castro, MSM	-	Non-Public Arbitrator, Presiding Chairperson
Dominic P. Romano	-	Non-Public Arbitrator
Ned B. Young	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/  
J. Guillermo Castro, MSM  
Non-Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_/s/  
Dominic P. Romano  
Non-Public Arbitrator

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

\_\_\_\_\_/s/  
Ned B. Young  
Non-Public Arbitrator

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

\_\_\_\_\_  
February 24, 2004  
Date of Service (For NASD Dispute Resolution office use only)

FEB. 24. 2004 2:24PM

NASD BOCA RATON

NASD Dispute Resolution  
Arbitration No. 03-02907

NO. 087 P. 5

Award Page 4 of 4

Respondent is solely liable for:

Member Fees

= \$ 2,350.00

Forum Fees

= \$ 3,450.00

Total Fees

= \$ 5,800.00

Less payments

= \$ 2,350.00

Balance Due NASD Dispute Resolution

= \$ 3,450.00

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ARBITRATION PANEL

J. Guillermo Castro, MSM

-

Non-Public Arbitrator, Presiding Chairperson

Dominic P. Romano

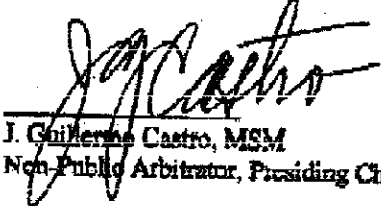
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Non-Public Arbitrator

Ned B. Young

-

Non-Public Arbitrator

Concurring Arbitrators' Signatures

J. Guillermo Castro, MSM

Non-Public Arbitrator, Presiding Chairperson

2/24/04  
Signature DateDominic P. Romano  
Non-Public Arbitrator\_\_\_\_\_  
Signature DateNed B. Young  
Non-Public Arbitrator\_\_\_\_\_  
Signature Date\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

FROM :

FEB. 23, 2004 1:29 PM

NASD BUCH AR.07

PHONE NO. :

FEB. 23 2004 05:01 PM P1  
NO. 080 P. 2

**NASD Dispute Resolution**

**Arbitration No. 03-02907**

**Award Page 4 of 4**

**Respondent is solely liable for:**

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**ARBITRATION PANEL**

J. Guillermo Castro, MSM

-

Non-Public Arbitrator, Presiding Chairperson

Dominic P. Romano

-

Non-Public Arbitrator

Ned B. Young

-

Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

J. Guillermo Castro, MSM

Non-Public Arbitrator, Presiding Chairperson

Signature Date



Dominic P. Romano  
Non-Public Arbitrator

2/23/04  
Signature Date

Ned B. Young

Non-Public Arbitrator

Signature Date

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

**NASD Dispute Resolution**  
**Arbitration No. 03-02907**  
**Award Page 4 of 4**

**Respondent is solely liable for:**

<b>Member Fees</b>	<b>= \$ 2,350.00</b>
<b>Forum Fees</b>	<b>= \$ 3,450.00</b>
<b>Total Fees</b>	<b>= \$ 5,800.00</b>
<b>Less payments</b>	<b>= \$ 2,350.00</b>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,450.00</b>

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**ARBITRATION PANEL**

<b>J. Guillermo Castro, MSM</b>	-	<b>Non-Public Arbitrator, Presiding Chairperson</b>
<b>Dominic P. Romano</b>	-	<b>Non-Public Arbitrator</b>
<b>Ned B. Young</b>	-	<b>Non-Public Arbitrator</b>

**Concurring Arbitrators' Signatures**

**J. Guillermo Castro, MSM**  
**Non-Public Arbitrator, Presiding Chairperson**

**Signature Date**

**Dominic P. Romano**  
**Non-Public Arbitrator**

**Signature Date**

  
**Ned B. Young**  
**Non-Public Arbitrator**

**2/24/03**  
**Signature Date**

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