

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

John C. Brice

and

Case Number: 03-02946
Hearing Site: Southfield, Michigan

Names of Respondents

Banc One Securities Corporation
and Nina Kallabat-Daiza

NATURE OF DISPUTE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

John C. Brice ("Claimant") was represented by Anthony V. Trogan, Esq., and Lysa Postula-Stein, Esq., Anthony V. Trogan, PLLC, West Bloomfield, Michigan.

Banc One Securities Corporation ("Banc One") and Nina Kallabat-Daiza a/k/a Nisreen N. Kallabat ("Kallabat-Daiza") were represented by Nita Kay Richardson, Esq., and Peter Sonderby, Esq., Ulmer & Berne, LLP, Cleveland, Ohio, and Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed on or about April 22, 2003. The Submission Agreement of John C. Brice was signed on or about April 10, 2003.

The Statement of Answer was filed jointly by Respondents on or about August 18, 2003. The Submission Agreement of Banc One was signed on or about May 27, 2003, by Ellen F. Stoutamire, Secretary. The Submission Agreement of Nina Kallabat-Daiza was signed on or about June 9, 2003.

CASE SUMMARY

Claimant asserted the following legal theories in support of his claim: breach of contract; common law fraud; promissory estoppel; conspiracy; negligence; malpractice; breach of fiduciary duty; and breach of Michigan securities law. The causes of action related to the recommendation and sale of Putnam mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant fails to state a claim upon which relief can be granted; at all times, Respondents reasonably followed and adhered to all compliance and supervisory procedures of NASD; at all times, Claimant was advised of and assumed the risks of market fluctuation; and Claimant's claims are barred by the doctrines of waiver and laches.

RELIEF REQUESTED

Claimant requested an award in the amount of \$206,919.00 in compensatory damages, interest, costs, attorneys' fees, rescission; exemplary and punitive damages; and additional damages as allowed by the panel.

Respondents requested that the claims asserted against them be dismissed in their entirety, that they be awarded their costs and attorneys' fees, and that this matter be expunged from Kallabat-Daiza's CRD record.

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(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Respondents, Banc One Securities Corporation and Nina Kallabat-Daiza, are jointly and severally liable for and shall pay to Claimant, John C. Brice, the sum of \$175,000.00 in compensatory damages;
- 2.) Respondents, Banc One Securities Corporation and Nina Kallabat-Daiza, are jointly and severally liable for and shall pay to Claimant, John C. Brice, the sum of \$300.00 in costs;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

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 = \$ 300.00

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. In this matter, the member firm is Banc One Securities Corporation.

Member surcharge = \$ 1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,750.00

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(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 x \$450.00 = \$ 450.00
Pre-hearing conference: January 10, 2005 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00
Pre-hearing conference: March 29, 2004 1 session

Four (4) Hearing sessions x \$1,125.00 = \$ 4,500.00
Hearing Dates: January 19, 2005 2 sessions
January 20, 2005 2 sessions

Total Forum Fees = \$ 6,075.00

The Arbitration Panel has assessed \$6,075.00 of the forum fees jointly and severally to Banc One Securities Corporation and Nina Kallabat-Daiza.

Fee Summary

Claimant, John C. Brice, is liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,125.00

Respondent, Banc One Securities Corporation, is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Banc One Securities Corporation and Nina Kallabat-Daiza, are jointly and severally liable for:

Forum Fees	= \$ 6,075.00
Total Fees	= \$ 6,075.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 6,075.00

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

ARBITRATION PANEL

Veronique M. Liem, Esq. - Public Arbitrator, Presiding Chair
Stephen D. Kursman, Esq. - Public Arbitrator
William H. Morris, CPA, CFA - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Veronique M. Liem, Esq.
Veronique M. Liem, Esq.
Public Arbitrator, Presiding Chair

01/21/05
Signature Date

/s/ Stephen D. Kursman, Esq.
Stephen D. Kursman, Esq.
Public Arbitrator

01/21/05
Signature Date

/s/ William H. Morris, CPA, CFA
William H. Morris, CPA, CFA
Non-Public Arbitrator

01/21/05
Signature Date

01/21/05
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-02948
Award Page 5 of 6

ARBITRATION PANEL

Veronique M. Liem, Esq. - Public Arbitrator, Presiding Chair
Stephen D. Kursman, Esq. - Public Arbitrator
William H. Morris, CPA, CFA - Non-Public Arbitrator

Concurring Arbitrators:

Veronique M. Liem, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Stephen D. Kursman, Esq.
Public Arbitrator

Signature Date

W. H. Morris
William H. Morris, CPA, CFA
Non-Public Arbitrator

1/21/05
Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-02946
Award Page 5 of 5

ARBITRATION PANEL

Veronique M. Liem, Esq. - Public Arbitrator, Presiding Chair
Stephen D. Kursman, Esq. - Public Arbitrator
William H. Morris, CPA, CFA - Non-Public Arbitrator

Concurring Arbitrators:

VL
Veronique M. Liem, Esq.
Public Arbitrator, Presiding Chair

1/21/05
Signature Date

SDK
Stephen D. Kursman, Esq.
Public Arbitrator

Signature Date

WHM
William H. Morris, CPA, CFA
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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NASD REGULATION

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NASD Dispute Resolution
Arbitration No. 03-02946
Award Page 5 of 5

ARBITRATION PANEL

Veronique M. Liem, Esq. - Public Arbitrator, Presiding Chair
Stephen D. Kursman, Esq. - Public Arbitrator
William H. Morris, CPA, CFA - Non-Public Arbitrator

Concurring Arbitrators:

Veronique M. Liem, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Stephen D. Kursman, Esq.
Public Arbitrator

1/21/05

Signature Date

William H. Morris, CPA, CFA
Non-Public Arbitrator

Signature Date

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