
Amended Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Robert Marzulli

Case Number: 03-03405

Names of the Respondents
Banc of America Investment Services, Inc.
John F. Bauder

Hearing Site: Tampa, FL

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Robert Marzulli, hereinafter referred to as "Claimant": James Richard Hooper, Esq., Hooper & Weiss, L.L.C., Orlando, FL.

For Banc of America Investment Services, Inc. ("BOA") and John F. Bauder ("Bauder"), hereinafter collectively referred to as "Respondents": Frederick S. Schrills, Esq., Gray Robinson, P.A., Tampa, FL.

CASE INFORMATION

Statement of Claim filed on or about: May 8, 2003.

Claimant signed the Uniform Submission Agreement: March 24, 2003.

Answer to Statement of Claim filed by Respondents on or about: July 7, 2003.

Respondent BOA signed the Uniform Submission Agreement: August 26, 2003.

Respondent Bauder signed the Uniform Submission Agreement: August 25, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; negligence; breach of contract; breach of fiduciary duty; respondeat superior; violation of NASD conduct rules; failure to supervise; omissions; and, misrepresentations. The causes of action relate to the purchase of numerous securities products in Claimant's account including shares of: Aim Dent Demographic Fund; Marisco Nations Focused Equities; General Magic, Inc., Interactive Telesis, Inc.; and, Motient Corporation.

Unless specifically admitted in their Answer, Respondents BOA and Bauder denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$334,971.86, punitive damages, attorneys' fees, costs, and any other remedy the undersigned arbitrators (the "Panel") deemed just and equitable.

Respondents requested dismissal of the Statement of Claim and expungement of this matter from Respondent Bauder's record.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 9, 2004, the parties advised NASD that they had reached a settlement of this matter.

On or about November 4, 2004, the parties filed a Joint Motion for Stipulated Arbitration Award ("Joint Motion") in which they requested that this matter be expunged from Respondent Bauder's registration records maintained by the NASD Central Registration Depository ("CRD").

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 Joint Motion, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed, in their entirety, with prejudice.
2. Any and all other claims, including claims for attorneys' fees and costs, are denied.
3. The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Bauder's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Bauder must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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	= \$ 300.00
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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 BOA is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

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:

September 14-17, 2004, settled by Claimant. Three-Day Cancellation Fee waived by the Panel.
September 14-17, 2004, settled by Respondents. = \$ 150.00

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:

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences: November 12, 2003 1 session	
November 25, 2003 1 session	
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Total Forum Fees	= \$2,250.00

The Panel has assessed \$1,125.00 of the forum fees to Claimant.

The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents.

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
<u>Forum Fees</u>	<u>= \$ 1,125.00</u>

Total Fees	= \$ 1,425.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent BOA is solely liable for:

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

Respondents are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$ 1,125.00</u>
Total Fees	= \$ 1,275.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,275.00

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

ARBITRATION PANEL

James Barry Wright	-	Public Arbitrator, Presiding Chairperson
Dennis A. Geduldig	-	Public Arbitrator
Robert N. Hagemeyer	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
James Barry Wright
Public Arbitrator, Presiding Chairperson

Signature Date

/s/
Dennis A. Geduldig
Public Arbitrator

Signature Date

/s/
Robert N. Hagemeyer
Non-Public Arbitrator

Signature Date

November 29, 2004
Date of Service (For NASD Dispute Resolution office use only)

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<u>Less payments</u>	<u>= \$ 1,425.00</u>
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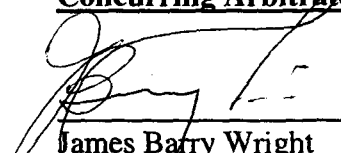
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James Barry Wright
Public Arbitrator, Presiding Chairperson

1/4/05

Signature Date

Dennis A. Geduldig
Public Arbitrator

Signature Date

Robert N. Hagemeyer
Non-Public Arbitrator

Signature Date

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James Barry Wright
Public Arbitrator, Presiding Chairperson

Signature Date



Dennis A. Geduldig
Public Arbitrator

1-6-05

Signature Date

Robert N. Hagemeyer
Non-Public Arbitrator

Signature Date

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Public Arbitrator, Presiding Chairperson

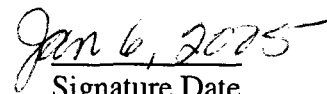
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Non-Public Arbitrator



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