

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Karen Hill

and

Case Number: 03-03645

Hearing Site: Southfield, Michigan

Name of Respondent

Banc One Securities Corp.

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**NATURE OF DISPUTE**

Associated Person v. Member Firm

**REPRESENTATION OF PARTIES**

Karen Hill ("Claimant") was represented by David S. Mendelson, Esq., Law Offices of David Mendelson, Birmingham, Michigan, and Dean J. Groulx, Esq., Hyman Lippitt, P.C., Birmingham, Michigan.

Banc One Securities Corp. ("Respondent") was represented by Todd J. Shoudy, Esq., and Jennifer Neumann, Esq., Dykema Gossett PLLC, Detroit, Michigan.

**CASE INFORMATION**

The Statement of Claim was filed on or about May 19, 2003. The Submission Agreement of Claimant Karen Hill was signed on or about May 8, 2003.

Statement of Answer was filed by Respondent on or about July 14, 2003. The Submission Agreement of Respondent was signed on or about May 28, 2003, by Ellen F. Stoutamire.

**CASE SUMMARY**

Claimant asserted the following causes of action: defamation by libel or slander; tortious interference with business relations; intentional infliction of emotional distress, invasion of privacy; unfair competition and common-law infringement action; and public policy exception to at-will employment doctrine. The causes of action relate to the Claimant's allegations that Respondent pressured Claimant to increase her sales of Banc One's mutual funds to her clients and when she refused, Respondent fabricated a story about Claimant and terminated her, and filed a disparaging U-5.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted defenses including the following: Claimant used a customer's account to generate undisclosed commissions and Claimant failed to mitigate any alleged damages.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of compensatory damages of \$900,000.00, plus punitive/exemplary damages of approximately \$450,000.00, interest, costs, attorneys' fees, expungement, and any other damages the panel deemed appropriate.

Respondent requested that the claims asserted against it be dismissed in their entirety and that it be awarded its 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(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.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) That any relief not specifically enumerated, including punitive damages and attorney 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 = \$ 500.00

#### **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 Corp.

Member surcharge = \$ 2,800.00

Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

**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 Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference: August 11, 2004 1 session	
Six (6) Hearing sessions x \$1,200.00	= \$ 7,200.00
Hearing Dates: December 6, 2004 2 sessions	
December 7, 2004 2 sessions	
December 8, 2004 2 sessions	
<b>Total Forum Fees</b>	<b>= \$ 8,400.00</b>

The Arbitration Panel has assessed \$4,200.00 of the forum fees to Karen Hill.

The Arbitration Panel has assessed \$4,200.00 of the forum fees to Banc One Securities Corp.

**Fee Summary**

Claimant, Karen Hill, is liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 4,200.00
<b>Total Fees</b>	<b>= \$ 4,700.00</b>
<b>Less payments</b>	<b>= \$ 1,700.00</b>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,000.00</b>

Respondent, Banc One Securities Corp., is liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 4,200.00
<b>Total Fees</b>	<b>= \$12,700.00</b>
<b>Less payments</b>	<b>= \$ 8,550.00</b>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,200.00</b>

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

**ARBITRATION PANEL**

James L. Karpen - Public Arbitrator, Presiding Chair  
Nancy S. Fearon - Public Arbitrator  
John A. Hubbard, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ James L. Karpen  
James L. Karpen  
Public Arbitrator, Presiding Chair

12/10/04  
Signature Date

/s/ Nancy S. Fearon  
Nancy S. Fearon  
Public Arbitrator

12/10/04  
Signature Date

/s/ John A. Hubbard, Esq.  
John A. Hubbard, Esq.  
Non-Public Arbitrator

12/10/04  
Signature Date

12/10/04  
Date of Service (For NASD office use only)

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**ARBITRATION PANEL**

James L. Karpen - Public Arbitrator, Presiding Chair  
Nancy S. Fearon - Public Arbitrator  
John A. Hubbard, Esq. - Non-Public Arbitrator

**Concurring Arbitrators:**

James L. Karpen  
Public Arbitrator, Presiding Chair

  
Nancy S. Fearon  
Public Arbitrator

Signature Date

Dec. 10, 2004  
Signature Date

John A. Hubbard, Esq.  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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**ARBITRATION PANEL**

James L. Karpen - Public Arbitrator, Presiding Chair  
Nancy S. Fearon - Public Arbitrator  
John A. Hubbard, Esq. - Non-Public Arbitrator

**Concurring Arbitrators:**

\_\_\_\_\_  
James L. Karpen  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Nancy S. Fearon  
Public Arbitrator

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Signature Date

\_\_\_\_\_  
John A. Hubbard, Esq.  
Non-Public Arbitrator

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

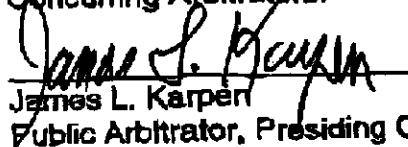
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**ARBITRATION PANEL**

James L. Karpen - Public Arbitrator, Presiding Chair  
Nancy S. Fearon - Public Arbitrator  
John A. Hubbard, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

  
James L. Karpen  
Public Arbitrator, Presiding Chair

12/10/04  
Signature Date

Nancy S. Fearon  
Public Arbitrator

Signature Date

John A. Hubbard, Esq.  
Non-Public Arbitrator

Signature Date

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