

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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Barabara A. Novak

Case Number: 03-06146

Name of the Respondents  
Banc One Securities, Corp.,  
Fredric R. Hoffman, and Robert Hutchinson

Hearing Site: Chicago, Illinois

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**NATURE OF THE DISPUTE**

Customer v. Member Firm and Associated Persons

**REPRESENTATION OF PARTIES**

Claimant Barabara A. Novak ("Novak") did not have attorney representation but received assistance from a family member, Gerald Novak throughout the arbitration.

Kenneth F. Berg, Esq., of the firm Ulmer & Berne, LLC located in Chicago, Illinois, represented Respondents Banc One Securities, Corp., ("Banc One") Fredric R. Hoffman, ("Hoffman"), and Robert Hutchinson, ("Hutchinson"), hereinafter collectively referred to as "Respondents."

**CASE INFORMATION**

Claimant filed the Statement of Claim filed on or about August 25, 2003 and signed the Uniform Submission Agreement on August 22, 2003.

Respondents filed a Joint Statement of Answer on October 29, 2003. Respondent Banc One signed the Uniform Submission Agreement on September 19, 2003, Respondent Hoffman signed it on September 19, 2003, and Respondent Hutchinson signed it on September 15, 2003.

**CASE SUMMARY**

Claimant Novak asserted the following causes of action: failure to supervise, breach of fiduciary duty, misrepresentation, omission of facts, and unsuitability.

The causes of action relate to investments in the Oppenheimer Quest Balanced Value Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim, losses were caused by Claimant's investment decisions and premature liquidation of the investment; Claimant is estopped from asserting these claims because of her inaction for 13 months; ratification; waiver; and Claimant did not assert failure to supervise.

### **RELIEF REQUESTED**

Claimant Novak requested compensatory damages in the amount of \$16,347.00, interest, attorney's fees, costs, and any such relief the Arbitrator deems just and equitable.

Respondents requested denial and dismissal of claims.

### **AWARD**

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

1. Any and all claims asserted by Barabara A. Novak against Respondents Banc One Securities, Corp., Fredric R. Hoffman, and Robert Hutchinson are denied in their entirety.
2. Except for the forum fees associated with this matter, which are specified herein, the parties shall bear their own costs, including attorney's fees.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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	= \$125.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Banc One, as a party, is assessed the following fees:

Member surcharge	=\$ 425.00
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**Forum Fees and Assessments**

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator at \$450.00	= \$ 900.00
Pre-hearing conferences:	
August 6, 2004	1 session
August 27, 2004	1 session

Two (2) Hearing sessions at \$450.00	= \$ 900.00
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Hearing Dates:	November 2, 2004	2 sessions	
Total Forum Fees			= \$1,800.00

The Arbitrator assessed \$450.00 of the forum fees to Barabara A. Novak and assessed \$1,350.00 of the forum fees to Banc One Securities, Corp., Fredric R. Hoffman, and Robert Hutchinson, jointly and severally.

**FEE SUMMARY**

Claimant Barabara A. Novak is solely liable for:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 575.00
Less payments	= \$ 575.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

Member Fees	= \$ 425.00
Total Fees	= \$ 425.00
Less payments	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents Banc One Securities, Corp., Fredric R. Hoffman, and Robert Hutchinson are jointly and severally liable for:

Forum Fees	= \$1,350.00
Total Fees	= \$1,350.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ 600.00

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

**ARBITRATOR**

Bonnie L. Macfarlane, Esq.

Public Arbitrator, Presiding Chairperson

Arbitrator's Signature

Bonnie L. Macfarlane, Esq.

Public Arbitrator, Presiding Chairperson

11-23-04  
Signature Date

11/23/04  
Date of Service (For NASD Dispute Resolution office use only)