

**Stipulated Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Kenneth E. Thompson, Kenneth E. Thompson as Trustee of the Kenneth E. Thompson Defined Benefit Pension Plan and Trust, and Donna Thompson, Claimants v. Banc of America Investment Services, Inc. and Nick W. Campbell, Respondents

Case Number: 04-01080

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

William P. Warden, Esq.
Warden Urtnowski &
Zaharoni LLP
Irvine, California

For Respondents:

Michael J. Lawson, Esq.
Morgan, Lewis & Bockius,
LLP
San Francisco, California

CASE INFORMATION

Statement of Claim filed: February 18, 2004

Claimants' Joint Uniform Submission Agreement signed: March 21, 2004

Joint Statement of Answer filed by Respondents: June 23, 2004

Respondent Banc of America Investment Services, Inc.'s Uniform Submission Agreement signed: September 15, 2004

Respondent Nick W. Campbell's Uniform Submission Agreement signed: September 15, 2004

CASE SUMMARY

Claimants asserted the following causes of action: promissory fraud, violation of California Corporations Code section 25401, and breach of contract. Claimants' causes of action relate to Respondents' alleged failure to follow Claimants' instructions with respect to how their funds were to be invested and failure to diversify Claimants' accounts.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$325,000.00 in compensatory damages, pre- and post-judgment interest, and costs.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, expungement of this matter from Nick W. Campbell's CRD records, assessment of forum fees to Claimants, and costs.

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 and the Parties' request for Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Nick W. Campbell's registration records maintained by NASD's Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Nick W. Campbell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Banc of America Investment Services, Inc. is a party, and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Adjournment Fees

The following adjournment fees are assessed:

May 23 – 25, 2006, adjournment requested by Claimants and Respondents	= \$1,125.00
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The Panel assessed \$562.50 of the adjournment fee to Claimants jointly and severally and \$562.50 of the adjournment fee to Respondents jointly and severally.

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. The following forum fees are assessed:

One (1) pre-hearing conference session with the Panel	
@ \$1,125.00/session	= \$1,125.00
Pre-hearing conferences: October 22, 2004	1 session
Total Forum Fees	= \$1,125.00

1. The Panel assessed \$562.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
<u>Adjournment Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 1,425.00
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Banc of America Investment Services, Inc. is charged with the following fees and costs:

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

3. Respondents Banc of America Investment Services, Inc. and Nick W. Campbell are charged jointly and severally with the following fees and costs:


Forum Fees	= \$ 562.50
<u>Adjournment Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 1,125.00
<u>Less Payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,125.00

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

ARBITRATION PANEL

Joan Clay Manley	•	Public Arbitrator, Presiding Chair
Ernest S. Gould	•	Public Arbitrator
John F. Cordova	•	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Joan Clay Manley
Chair, Public Arbitrator

06/03/06
Signature Date

Ernest S. Gould
Public Arbitrator

Signature Date

John F. Cordova
Non-Public Arbitrator

Signature Date

6/16/06
Date of Service

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Public Arbitrator

6-16-06

Signature Date

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Non-Public Arbitrator

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Signature Date



6/16/06
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