

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

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In the Matter of the Arbitration Between:

John A. Vilardo, Claimant v. Kenneth Himes and Lydia Wang Himes of the Himes Family Trust,  
Respondents

Case Number: 04-02483

Hearing Site: Los Angeles, California

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Nature of the Dispute: Associated Person v. Customers

**REPRESENTATION OF PARTIES**

For Claimant:

Brian T. Hafter, Esq.  
Steefel, Levitt & Weiss, PC  
San Francisco, California

For Respondents:

L. Louis Raring, Esq.  
Law Offices of L. Louis Raring  
Costa Mesa, California

**CASE INFORMATION**

Statement of Claim filed: April 6, 2004

Claimant's Uniform Submission Agreement signed: April 5, 2004

Statement of Answer filed by Respondents: None Filed

Respondent Kenneth Himes' Uniform Submission Agreement signed: August 26, 2004

Respondent Lydia Wang Himes' Uniform Submission Agreement signed: August 26, 2004

**CASE SUMMARY**

On or about August 29, 2002, Respondents initiated NASD Arbitration Case No. 02-04345 entitled Kenneth Himes and Lydia Wang Himes, individually and as trustees of the Himes Family Trust v. Banc of America Investment Services, Inc.. Although Mr. Vilardo was the broker for the Trust's account, he was not named as a party in the Himes' arbitration. The Himes' arbitration

was settled and the case was closed. Mr. Vilardo was required to disclose the arbitration on his regulatory record.

### **RELIEF REQUESTED**

Claimant requested expungement of all reference to the above captioned arbitration and NASD Arbitration No. 02-04345 from Claimant John A. Vilardo's registration records maintained by the NASD Central Registration Depository.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On April 6, 2004, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On August 3, 2004, Respondents and Respondent's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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 Parties' request for this 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 Claimant John A. Vilardo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Claimant John A. Vilardo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 2) The Panel recommends the expungement of all reference to NASD Arbitration No. 02-04345 entitled Kenneth Himes and Lydia Wang Himes, individually and as trustees of the Himes Family Trust v. Banc of America Investment Services, Inc. from Claimant John A. Vilardo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Claimant John A. Vilardo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) 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	= \$ 250.00
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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. employed the Claimant at the time of the events giving rise to this dispute and the following fees are assessed:

Member Surcharge	= \$1,500.00
<u>Pre-Hearing Process Fee</u>	<u>= \$ 750.00</u>
<b>Total Member Fees</b>	<b>= \$2,250.00</b>

**Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,000.00/session	= \$1,000.00
<u>Pre-hearing conference: August 26, 2004 1 session</u>	
<b>Total Forum Fees</b>	<b>= \$1,000.00</b>

The Panel assessed the entire balance of the forum fees, in the amount of \$1,000.00 to Claimant.

**Fee Summary**

1. Claimant John A. Vilardo is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 1,000.00
Total Fees	= \$ 1,250.00
Less payments	= \$(1,250.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

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

Member Fees	= \$ 2,250.00
Less payments	= \$(3,750.00)
<b>Refund Due from NASD Dispute Resolution</b>	<b>= \$(1,500.00)</b>

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**

***Henry Pollard, Esq.***

***Ronald L. Cameron***

***Ronald L. Gershon***

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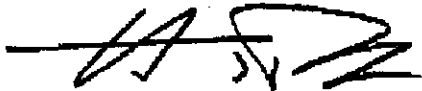
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***Public Arbitrator, Presiding Chair***

***Public Arbitrator***

***Non-Public Arbitrator***

**Concurring Arbitrators' Signatures**



**Henry Pollard, Esq.**  
**Chair, Public Arbitrator**

11/29/04

**Signature Date**

**Ronald L. Cameron**  
**Public Arbitrator**

**Signature Date**

**Ronald L. Gershon**  
**Non-Public Arbitrator**

**Signature Date**

11/30/04

**Date of Service**

ARBITRATION PANEL

<i>Henry Pollard, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Ronald L. Cameron</i>	-	<i>Public Arbitrator</i>
<i>Ronald L. Gershon</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

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Henry Pollard, Esq.  
Chair, Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
Ronald L. Cameron  
Public Arbitrator

11/24/04  
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Signature Date

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Ronald L. Gershon  
Non-Public Arbitrator

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Signature Date

11/30/04  
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**ARBITRATION PANEL**

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<b><i>Ronald L. Gershon</i></b>	-	<b><i>Non-Public Arbitrator</i></b>

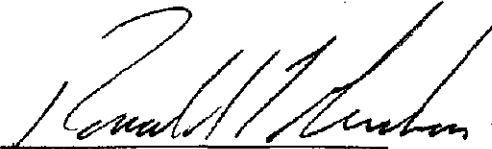
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