
STIPULATED AWARD
NASD Dispute Resolution

In The Matter of the Arbitration Between

Name of Claimant

Banc of America Investment Services, Inc.

and

Name of Respondent

Peter D. Foley

Case Number: 04-07214

Hearing Site: Houston, Texas

NATURE OF DISPUTE

Member Firm v. Associated Person

REPRESENTATION OF PARTIES

Banc of America Investment Services, Inc. ("Claimant" or "BAI") was represented by Diane C. Fischer, Esq. and Thomas A. Volz, Esq., Kane & Fischer, Ltd., Chicago, Illinois.

Peter D. Foley ("Foley" or "Respondent") was represented by Walter Jefferson, Esq., Cutrer & Jefferson, Houston, Texas.

CASE INFORMATION

The Statement of Claim filed on or about October 12, 2004. Claimant's Submission Agreement was signed on or about October 1, 2004.

The Statement of Answer and Counterclaim was filed on or about December 16, 2004. Respondent's Submission Agreement was signed on or about December 16, 2004.

CASE SUMMARY

Claimant alleged, among other things, that Foley is liable for damages in the principal amount of \$98,000.00, plus accrued and accruing interest and attorneys' fees and costs in accordance with the terms of a Promissory Note executed by Foley on October 21, 2002 (the "Note"), which became due and owing to BAI upon Foley's termination from BAI on April 23, 2004.

Foley has denied any liability to BAI and has asserted a Counterclaim against BAI in which Foley alleges, among other things, breach of contract and fraudulent inducement.

BAI has denied any liability as to the matters alleged in Foley's Counterclaim.

The parties resolved their dispute arising out of, and in connection with, the aforementioned Note by executing a Settlement Agreement. Pursuant to the terms of that Settlement Agreement, this award shall be signed by the arbitrators but no action will be taken by BAI to enforce the award unless Foley fails to comply with the payment terms of the Settlement Agreement. Should Foley abide by the terms of the Settlement Agreement and pay BAI the monies as agreed to, this Stipulated Award shall be deemed to be satisfied.

RELIEF REQUESTED

Claimant requested an Award in the amount of:

Compensatory Damages:	\$98,000.00
Interest:	\$2,673.69 (October 22, 2003 through April 23, 2004), plus additional accrued interest at the rate of 5% per annum from April 23, 2004 until paid in full
Costs:	Unspecified
Attorneys' Fees:	Unspecified
TOTAL:	\$100,673.69

Foley requested that BAI be denied the relief sought in its Statement of Claim; that the Note be extinguished and held for naught; and that Foley be awarded reasonable and necessary attorney's fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

The parties stipulated to the entry of this award in the event Foley failed to comply with the payment terms set forth in the Settlement Agreement entered into between the parties in October 2005. Pursuant to the Settlement Agreement, Foley waived any right to an Arbitration hearing.

The parties also agree 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.

AWARD

The parties have entered into a Settlement Agreement. As part of the Settlement Agreement, the parties have consented to the following award:

1. Peter D. Foley shall pay to Banc of America Investment Services, Inc. the sum of \$80,000.00, plus interest at the rate of 6% per annum from October 15, 2005, to the date of payment, less any amounts paid by Foley under the Settlement Agreement entered into between BAI and Foley in October 2005;
2. Except as otherwise specified herein, each party shall bear its own costs and attorneys' fees;
3. Peter D. Foley is liable for and shall pay to the NASD Dispute Resolution, Inc. one-half of any forum fees and/or hearing cancellation fees assessed by the Panel;
4. Banc of America Investment Services, Inc. is liable for and shall pay to the NASD Dispute Resolution, Inc. one-half of any forum fees and/or hearing cancellation fees assessed by the Panel; and
5. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 1,000.00

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 Bank of America Investment Services, Inc.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,700.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750.00	= \$ 750.00
<u>Pre-hearing conference: March 2, 2005 1 session</u>	
Total Forum Fees	= \$ 750.00

The Arbitration Panel has assessed \$375.00 of the forum fees to Claimant, Banc of America Investment Services, Inc..

The Arbitration Panel has assessed \$375.00 of the forum fees to Respondent, Peter D. Foley.

Fee Summary

Claimant, Banc of America Investment Services, Inc., is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	= \$ 375.00
Total Fees	= \$ 4,925.00
<u>Less payments</u>	= \$ 6,550.00
Refund Due to Claimant	= \$ 1,625.00

Respondent, Peter D. Foley, is liable for:

<u>Forum Fees</u>	= \$ 375.00
Total Fees	= \$ 375.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution	= \$ 75.00

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

ARBITRATION PANEL

Charles E. Martin, CPA - Non-Public Arbitrator, Presiding Chair

Thomas H. Griffin - Non-Public Arbitrator

Ronald R. Simpson - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Charles E. Martin, CPA
Charles E. Martin, CPA
Non-Public Arbitrator, Presiding Chair

December 29, 2005
Signature Date

/s/ Thomas H. Griffin
Thomas H. Griffin
Non-Public Arbitrator

December 29, 2005
Signature Date

/s/ Ronald R. Simpson
Ronald R. Simpson
Non-Public Arbitrator

December 30, 2005
Signature Date

December 30, 2005
Date of Service (For NASD office use only)

ARBITRATION PANEL

Charles E. Martin, CPA - Non-Public Arbitrator, Presiding Chair
Thomas H. Griffin - Non-Public Arbitrator
Ronald R. Simpson - Non-Public Arbitrator

Concurring Arbitrators:

Charles E. Martin
Charles E. Martin, CPA
Non-Public Arbitrator, Presiding Chair

12-29-05
Signature Date

Thomas H. Griffin
Thomas H. Griffin
Non-Public Arbitrator

Signature Date

Ronald R. Simpson
Ronald R. Simpson
Non-Public Arbitrator

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Non-Public Arbitrator, Presiding Chair

Signature Date

Thomas H. Griffin
Non-Public Arbitrator

Signature Date



Ronald R. Simpson
Non-Public Arbitrator

12/30/2005

Signature Date

Date of Service (For NASD office use only)