

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Gladys Darlene Obermiller, Claimant v. Banc One Securities Corporation, Leeann Patterson, and Deborah Spry, Respondents

Case Number: 04-07447

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Customer v. Member and Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Nicolas J. Cornelius, Esq.
Kendhammer & Colburn, L.L.P.
Phoenix, Arizona

For Respondents:

Elizabeth A. Jerdonek, Esq.
Ulmer Berne LLP
Cleveland, Ohio

CASE INFORMATION

Statement of Claim received on: October 25, 2004

Claimant's Uniform Submission Agreement signed: October 8, 2004

Joint Statement of Answer filed by Respondents: January 6, 2005

Respondent Banc One Securities Corporation's Uniform Submission Agreement signed:
January 6, 2005

Respondent Leeann Patterson's Uniform Submission Agreement signed: December 3, 2004

Respondent Deborah Spry's Uniform Submission Agreement signed: December 3, 2004

CASE SUMMARY

Claimant alleged professional negligence, breach of fiduciary duty, negligent supervision, respondeat superior, state securities fraud, common law fraud, and Arizona Investment Management Act fraud. Claimant's allegations involved investment in Class B shares of Banc One propriety products.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of \$150,000.00, rescission and/or restitution, unspecified punitive damages, pre- and post-judgment interest and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, expungement of all reference to the above captioned arbitration from Respondents Leeann Patterson, and Deborah Spry's registration records maintained by the NASD Central Registration Depository, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

A the start of the hearing, one of the arbitrators, Mr. Howard S. Wacker, informed the Parties and the Panel that he would not be able to sit beyond 2:30 p.m. on September 7, 2005, because of a family emergency. The Parties agreed to proceed with the arbitration hearing with Mr. Wacker present on September 6, 2005, and that the hearing would continue with the remaining two arbitrators after Mr. Howard Wacker left at 2:30 p.m. on September 7, 2005. The Parties and the Panel agreed that arbitrator Howard Wacker would listen to the tape of the proceedings which took place in his absence, and along with the rest of the Panel, would render an award.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents are jointly and severally liable and shall pay to Claimant the sum of \$40,000.00 in compensatory damages.
- 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 One Securities Corporation is a party and the following fees are assessed:

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

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:

(1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: March 2, 2005 1 session	
(5) Hearing sessions @ \$1,125.00/session	= \$5,625.00
Hearings: September 6, 2005 2 sessions	
September 7, 2005 3 sessions	

Total Forum Fees	= \$ 6,750.00
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The Panel assessed \$6,750.00 of the forum fees jointly and severally to Respondents.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	= \$(975.00)
Refund Due Claimant	= \$ (675.00)
2. Respondent Banc One Securities Corporation is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents are charged jointly and severally with the following fees and costs:


<u>Forum Fees</u>	= \$ 6,750.00
Balance Due NASD Dispute Resolution	= \$ 6,750.00

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

Eugene W. Bronski	-	Public Arbitrator, Presiding Chair
Howard S. Wacker	-	Public Arbitrator
Roy R. Petach, II	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Eugene W. Bronski
Chair, Public Arbitrator

9-15-05
Signature Date

Howard S. Wacker
Public Arbitrator

Signature Date

Roy R. Petach, II
Non-Public Arbitrator

Signature Date

9/15/05
Date of Service

NASD Dispute Resolution
Arbitration No. 04-07447
Award Page 3 of 3

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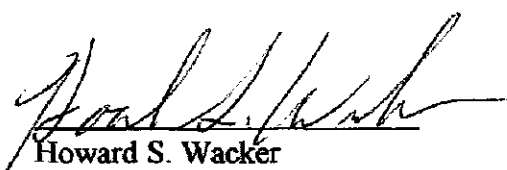
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