

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Alfred DiRico (Claimant) vs. Ellen Davidson and Banc of America Investment Services, Inc. (Respondents)

Case Number: 05-02485

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Customer vs. Associated Person and Member

REPRESENTATION OF PARTIES

Claimant Alfred DiRico hereinafter referred to as "Claimant": Jonathan Braverman, Esq., Baker, Braverman & Barbadoro, P.C., Braintree, MA.

Respondents Ellen Davidson ("Davidson") and Banc of America Investment Services, Inc. ("Banc of America") hereinafter collectively referred to as "Respondents": William E. Goydan, Esq. and Jennifer R. Jacobus, Esq., Wolff & Samson PC, West Orange, NJ.

CASE INFORMATION

Statement of Claim filed on or about: May 6, 2005.

Claimant signed the Uniform Submission Agreement: May 26, 2005.

Joint Statement of Answer filed by Respondents on or about: September 19, 2005.

Banc of America signed the Uniform Submission Agreement: August 25, 2005.

Davidson signed the Uniform Submission Agreement: November 24, 2006.

CASE SUMMARY

Claimant asserted the following cause of action: misrepresentations and unfair and deceptive acts. The causes of action relate to an American Express Life Fixed Annuity.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$40,000.00.

Respondents requested dismissal of the Statement of Claim in its entirety and expungement of this matter from Respondent Davidson's CRD record.

AWARD

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

1. Claimant's claims are dismissed and denied in their entirety.
2. Respondent Davidson's request for expungement is denied.
3. 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 or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 175.00
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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 of America Investment Services, Inc. is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 1,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 17-18, 2006 adjournment by Respondents	= \$ 450.00
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Forum Fees and Assessments

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

Three (3) pre-hearing sessions with single arbitrator @ \$450.00	= \$ 1,350.00
Pre-hearing conferences: December 2, 2005	1 session
November 13, 2006	1 session
November 14, 2006	1 session

Three (3) Hearing sessions with single arbitrator @ \$450.00	= \$ 1,350.00
Hearing Dates: November 15, 2006	2 sessions
November 16, 2006	1 session

Total Forum Fees = \$ 2,700.00

1. The Arbitrator has assessed \$1,350.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$1,350.00 of the forum fees to Respondents, jointly and severally.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 1,350.00
Total Fees	= \$ 1,525.00
Less payments	= \$ 2,125.00
Refund Due Claimant	= \$ 600.00

2. Respondent Banc of America is solely liable for:

Member Fees	= \$ 2,625.00
Total Fees	= \$ 2,625.00
Less Payments	= \$ 2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$ 1,350.00
Adjournment Fees	= \$ 450.00
Total Fees	= \$ 1,800.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

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

ARBITRATOR

Mary C. Kelleher

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Sole Public Arbitrator

Arbitrator's Signature

Mary C. Kelleher

Mary C. Kelleher
Sole Public Arbitrator

January 3, 2007
Signature Date

January 3, 2007
Date of Service (For NASD Dispute Resolution use only)