

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

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In the Matter of the Arbitration Between:

Banc of America Investment Services, Inc., Claimant v. Todd E. Siedel, Respondent

Case Number: 05-04656

Hearing Site: Los Angeles, California

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Nature of the Dispute: Member v. Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Ronald P. Kane, Esq.  
Kane & Fischer, Ltd.  
Chicago, Illinois

For Respondent:

Todd E. Siedel  
In Propria Persona  
Huntington Beach, California

**CASE INFORMATION**

Statement of Claim filed: September 6, 2005

Claimant's Uniform Submission Agreement signed: September 2, 2005

**CASE SUMMARY**

Claimant alleged breach of a promissory note and failure to repay a commission deficit.

**RELIEF REQUESTED**

Claimant requested \$84,675.00 for the principal balance of the promissory note, \$2,749.20 in interest accrued during the term of the promissory note, interest at the rate of 5% per annum from the date of default on the promissory note to the date of payment, \$2,157.14 for repayment of the commission deficit, interest from April 7, 2005 to date of payment of the commission deficit, and costs, including attorney's fees.

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

Respondent did not file with NASD Dispute Resolution a properly executed submission agreement, but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure, and having appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On July 5, 2006, Claimant filed a motion to bar Respondent from presenting any facts or defenses at the hearing in this matter and included a request that the evidentiary hearing be conducted telephonically. On July 17, 2006, Respondent filed a response to Claimant's motion. On July 28, 2006, Claimant filed a reply in support of its motion. On August 15, 2006, the Panel and parties held a telephonic pre-hearing conference to hear oral argument on Claimant's motion. On August 15, 2006, the Panel issued an Order stating the following: 1) Claimant's Motion to Bar is denied with leave to reintroduce the motion in whole or in part at the hearing. The Panel will then consider whether and to what extent Claimant will have been prejudiced by Respondent's failure to file a timely answer or otherwise participate in this proceeding as required by NASD; and 2) Claimant's request to conduct the arbitration proceeding telephonically is denied.

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) Respondent is liable to and shall pay Claimant the sum of \$84,675.00 for the principal balance on the promissory note.
- 2) Respondent is liable to and shall pay Claimant the sum of \$2,749.20 in interest accrued during the term of the promissory note.
- 3) Respondent is liable to and shall pay Claimant the sum of \$6,136.40 in interest on the promissory note from April 8, 2005 through September 19, 2006.
- 4) Respondent is liable to and shall pay Claimant \$2,157.14 for repayment of the commission deficit.
- 5) Respondent is liable to and shall pay Claimant \$200.49 in interest on the commission deficit.

- 6) Respondent is liable to and shall pay Claimant \$9,606.00 in attorney's fees, pursuant to the terms of the promissory note.
- 7) Except as awarded above, the parties shall bear their respective costs.
- 8) 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	= \$ 1,000.00
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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	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,700.00</u>
<b>Total Member Fees</b>	<b>= \$ 3,550.00</b>

#### **Forum Fees and Assessments**

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

2 Pre-hearing conference sessions with the Panel @ \$750.00/session	= \$ 1,500.00
Pre-hearing conferences: January 11, 2006	1 session
August 15, 2006	1 session
1 Hearing session @ \$750.00/session	= \$ 750.00
Hearing: September 19, 2006	1 session

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<b>Total Forum Fees</b>	<b>= \$ 2,250.00</b>
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1. The Panel assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel assessed \$1,125.00 of the forum fees to Respondent.

**Fee Summary**

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

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,550.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 5,675.00
Less payments	= \$(5,300.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 375.00</b>

2. Respondent is charged with the following fees and costs:


Forum Fees	= \$ 1,125.00
Less payments	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,125.00</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**

Kenneth I. Rosenblum	-	Non-Public Arbitrator, Presiding Chair
William L. Hildeburn, Jr.	-	Non-Public Arbitrator
Ronald E. Ogden	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Kenneth I. Rosenblum  
Chair, Non-Public Arbitrator

9/21/06  
Signature Date

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William L. Hildeburn, Jr.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Ronald E. Ogden  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

09/25/06  
Date of Service

**ARBITRATION PANEL**

Kenneth I. Rosenblum	-	Non-Public Arbitrator, Presiding Chair
William L. Hildeburn, Jr.	-	Non-Public Arbitrator
Ronald E. Ogden	-	Non-Public Arbitrator

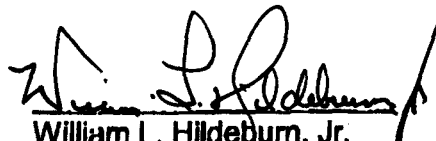
**Concurring Arbitrators' Signatures**

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Kenneth I. Rosenblum  
Chair, Non-Public Arbitrator

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Signature Date



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William L. Hildeburn, Jr.  
Non-Public Arbitrator

September 20, 2006  
Signature Date

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Ronald E. Ogden  
Non-Public Arbitrator

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Signature Date

09/25/06  
Date of Service

ARBITRATION PANEL

Kenneth I. Rosenblum  
William L. Hildeburn, Jr.  
Ronald E. Ogden

Non-Public Arbitrator, Presiding Chair  
Non-Public Arbitrator  
Non-Public Arbitrator

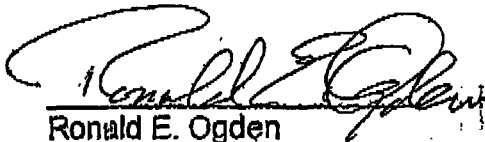
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Chair, Non-Public Arbitrator

Signature Date

William L. Hildeburn, Jr.  
Non-Public Arbitrator

Signature Date

  
Ronald E. Ogden  
Non-Public Arbitrator

9/22/06  
Signature Date

09/25/06  
Date of Service