

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of Claimants

Banc One Securities Corporation and  
JP Morgan Chase Bank, N.A.

vs.

Case Number: 05-04992  
Hearing Site: Chicago, Illinois

Names of Respondents

Justin P. Fredian,  
Timothy N. Sjostrom, and  
Tyrone L. Coates

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**NATURE OF THE DISPUTE**

Member and Non-Member vs. Associated Persons

**REPRESENTATION OF PARTIES**

Banc One Securities Corporation and JP Morgan Chase Bank, N.A. ("Claimants") were represented by Michael D. Wexler, Esq. and J. Scott Humphrey, Esq., Seyfarth Shaw, LLP, Chicago, Illinois.

Justin P. Fredian, Timothy N. Sjostrom and Tyrone L. Coates ("Respondents") were represented by Dennis J. Concilla, Esq. and Douglas R. Jennings, Esq., Carlile Patchen & Murphy LLP, Columbus, Ohio.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 23, 2005. Claimants' Response to Respondents' Affirmative Defenses was filed on or about November 21, 2005. The Submission Agreement of Claimants, Banc One Securities Corporation and JP Morgan Chase Bank, N.A., was signed on or about September 13, 2005 by Jeffrey L. Davis.

Answer of Respondents to Statement of Claim was filed by Respondents, Justin P. Fredian, Timothy N. Sjostrom and Tyrone L. Coates on or about November 18, 2005. The Submission Agreement of Respondent, Justin P. Fredian, was signed on or about November 16, 2005. The Submission Agreement of Respondent, Timothy N. Sjostrom, was signed on or about November 16, 2005. The Submission Agreement of Respondent, Tyrone L. Coates, was signed on or about November 16, 2005.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract, misappropriation of trade secrets, unfair competition, conversion, conspiracy, and breach of fiduciary duty. Claimants alleged that Respondents removed and utilized confidential customer and account information belonging to Claimants for the improper solicitation of Claimants' customers for a competitor.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred by the doctrines of waiver, estoppel or laches; Claimants failed to mitigate; and Claimants seek relief barred by the rules of the NASD.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Compensatory Damages	\$150,000.00
Punitive Damages	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary	unspecified
Injunctive Relief	

Respondents requested that the claims asserted against them be dismissed in their entirety and that Claimants be ordered to pay all forum fees, costs and attorneys fees associated with this proceeding.

### **OTHER ISSUES CONSIDERED & DECIDED**

At the hearing, Claimants requested an award of compensatory damages in the total amount of \$376,000.00 and that the compensatory damages be trebled.

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

- 1.) Respondents, Justin P. Fredian and Timothy N. Sjostrom, are jointly and severally liable for and shall pay to Claimants, Banc One Securities Corporation and JP Morgan Chase Bank, N.A., the sum of \$138,000.00 (One Hundred Thirty Eight Thousand Dollars and No Cents) in compensatory damages;
- 2.) The claims asserted against Respondent, Tyrone L. Coates, are dismissed in their entirety;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **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
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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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Banc One Securities Corporation. The member firm currently employing Respondents is Citigroup Global Markets, Inc.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each hearing 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:

One (1) Pre-hearing session with Panel x \$1,125.00		= \$ 1,125.00
Pre-hearing conference: February 9, 2006	1 session	
Six (6) Hearing sessions x \$1,125.00		= \$ 6,750.00
Hearing Dates: September 11, 2006	2 sessions	
September 12, 2006	2 sessions	
September 13, 2006	2 sessions	
Total Forum Fees		= \$ 7,875.00

The Panel has assessed \$3,937.50 of the forum fees jointly and severally to Banc One Securities Corporation and JP Morgan Chase Bank, N.A.

The Panel has assessed \$3,937.50 of the forum fees jointly and severally to Justin P. Fredian and Timothy N. Sjostrom.

### **FEE SUMMARY**

Claimant, Banc One Securities Corporation, is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Claimants, Banc One Securities Corporation and JP Morgan Chase Bank, N.A., are jointly and severally liable for:

Initial Filing Fee	= \$ 1,000.00
Forum Fees	= \$ 3,937.50
Total Fees	= \$ 4,937.50
Less payments	= \$ 2,125.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

Respondents, Justin P. Fredian and Timothy N. Sjostrom, are jointly and severally liable for:

Forum Fees	= \$ 3,937.50
Total Fees	= \$ 3,937.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,937.50

Citigroup Global Markets, Inc., is liable for:

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

A. Brad Busscher, Esq. - Non-Public Arbitrator, Presiding Chair  
Ralph M. Goren, Esq. - Public Arbitrator  
Richard R. Bicek, Esq. - Public Arbitrator

Concurring Arbitrators' Signatures:

  
A. Brad Busscher, Esq.  
Non-Public Arbitrator, Presiding Chair

9/27/06  
Signature Date

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Ralph M. Goren, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Richard R. Bicek, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD office use only)

Respondents, Justin P. Fredian and Timothy N. Sjostrom, are jointly and severally liable for:

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Total Fees	= \$ 3,937.50
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NASD REGULATION

NASD Dispute Resolution  
Arbitration No. 05-04992  
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