

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of Claimants

Guy M. Adams and Linda Adams

vs.

Case Number: 05-05519
Hearing Site: Dallas, Texas

Name of Respondent

Banc of America Investment Services, Inc.

NATURE OF THE DISPUTE

Customers vs. Member

REPRESENTATION OF PARTIES

Guy M. Adams and Linda Adams ("Claimants") were represented by Chris Fehr, Esq. and Sean M. Keane, Esq., SimmonsCooper LLC, East Alton, Illinois.

Banc of America Investment Services, Inc. ("Respondent") was represented by Rodney Acker, Esq. and Nikole Crosby, Esq., Jenkins & Gilchrist, Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about October 28, 2005. The Submission Agreement of Claimants was signed on or about October 24, 2005.

The Statement of Answer, Motion to Strike and Motion to Dismiss was filed by Respondent on or about January 20, 2006. The Submission Agreement of Respondent was signed on or about January 24, 2006.

The Response to Respondent's Motion to Strike and Motion to Dismiss was filed by the Claimants on or about May 15, 2006. The Reply Brief in Support of Its Motion to Strike and Motion to Dismiss was filed by Respondent on or about May 25, 2006.

The Supplemental Submission on the Issue of Statute of Limitations was filed by the Claimants on or about July 21, 2006.

The Response to the Panel's Request for Additional Information was filed by Respondent on or about September 13, 2006. The Response to the Panel's Request for Additional Information was filed by the Claimants on or about September 26, 2006.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; breach of contract; violation of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder; violation of the Texas Securities Act; and violation of the Texas Deceptive Practices-Consumer Protection Act ('DTPA'). These causes of action related to the recommendation and purchase of mutual funds that were heavily concentrated in stocks, including speculative stocks in the technology and telecommunications sector. Claimants alleged that by April 2001, Claimants' portfolio was concentrated in equity-based mutual funds and this lack of diversification led to a major reduction of net portfolio value. In addition, Claimants alleged that the risks from the lack of diversification were compounded by Respondent recommending and purchasing Class B shares of the mutual funds instead of Class A shares that would have been more suitable for the Claimants.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred, in whole or in part, by comparative and/or contributory negligence; Claimants are barred from recovery, in whole or in part, by the doctrine of waiver, estoppel and ratification; Claimants' claims are barred, in whole or in part, by Claimants' failure to mitigate their damages; Claimants' claims are barred, in whole or in part, because Respondent acted in good faith at all relevant times; Respondent did not have a fiduciary duty with Claimants; the DTPA does not apply to securities or to the rendering of professional advice; Claimants are barred from recovery because Respondent maintained a reasonable system of supervision and control over its registered representatives and other employees, and because Respondent properly supervised the accounts at issue; Claimants are barred from recovery, in whole or in part, by the doctrine of laches; Claimants are barred from recovery, in whole or in part, by the applicable statute of limitations; any loss incurred by Claimants was, in whole or in part, caused by acts of third parties and/or by conditions and events outside the control of Respondent; an award of punitive damages would constitute a violation of the due process, equal protection, and excessive fines clause of the United States and the Texas Constitutions; and Respondent plead Chapter 41 of the Texas Civil Practice and Remedies Code as a defense to Claimants' allegations of negligence and relied upon the monetary limitation of the amount of exemplary damages which are recoverable.

RELIEF REQUESTED

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$143,230.00
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On July 17, 2006 and September 18, 2006, the Panel heard argument regarding Respondent's Motion to Dismiss and Motion to Strike. After full consideration of the pleadings, authority and arguments presented by the parties, the Panel has determined that the Motion to Dismiss is granted.

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 authority, and the arguments presented at the pre-hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Pursuant to the Panel's decision to grant Respondent's Motion to Dismiss, the Claimants' claims, each and all, are hereby denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) 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 = \$ 300.00

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 Banc of America Investment Services, 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:

Three (3) Pre-hearing sessions with Panel x \$1,125.00 = \$ 3,375.00
Pre-hearing conferences: May 26, 2006 1 session
July 17, 2006 1 session
September 18, 2006 1 session

Total Forum Fees = \$ 3,375.00

The Panel has assessed \$1,687.50 of the forum fees jointly and severally to the Claimants, Guy M. Adams and Linda Adams.

The Panel has assessed \$1,687.50 of the forum fees to Respondent Banc of America Investment Services, Inc.

FEE SUMMARY

Claimants, Guy M. Adams and Linda Adams, are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$ 1,987.50
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 412.50

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

Member Fees = \$ 5,200.00

Forum Fees	= \$ 1,687.50
Total Fees	= \$ 6,887.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50

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

ARBITRATION PANEL

Maxel B. Silverberg, Esq. - Public Arbitrator, Presiding Chair
T. E. Jaeb - Public Arbitrator
Larry N. Quinn, CPA - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Maxel B. Silverberg, Esq.
Public Arbitrator, Presiding Chair

Signature Date

T. E. Jaeb
Public Arbitrator

Signature Date

Larry N. Quinn, CPA
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 05-05519
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Forum Fees	= \$ 1,687.50
Total Fees	= \$ 6,887.50
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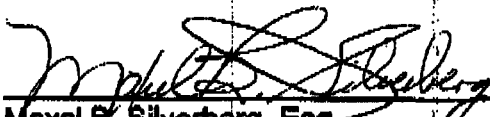
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T. E. Jaeb - Public Arbitrator

Larry N. Quinn, CPA - Non-Public Arbitrator

Concurring Arbitrators' Signatures:


 Maxel B. Silverberg, Esq.
 Public Arbitrator, Presiding Chair

10/20/06
 Signature Date

T. E. Jaeb
 Public Arbitrator

Signature Date

Larry N. Quinn, CPA
 Non-Public Arbitrator

Signature Date

10/26/06 
 Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 05-05519
Award Page 5 of 5

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Larry N. Quinn, CPA - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Maxel B. Silverberg, Esq.
Public Arbitrator, Presiding Chair

Signature Date



T. E. Jaeb
Public Arbitrator

20 October 2006

Signature Date

Larry N. Quinn, CPA
Non-Public Arbitrator

Signature Date

10/26/06 klw

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NASD Dispute Resolution
Arbitration No. 05-05519
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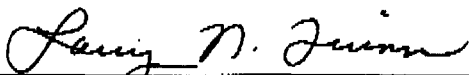
Concurring Arbitrators' Signatures:

Maxel B. Silverberg, Esq.
Public Arbitrator, Presiding Chair

Signature Date

T. E. Jaeb
Public Arbitrator

Signature Date



Larry N. Quinn, CPA
Non-Public Arbitrator

10/19/2006

Signature Date

10/26/06 mm

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