

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Banc of America Investment Services, Inc., Claimant v. Dermot J. Durnin, Respondent

Case Number: 05-05695

Hearing Site: San Francisco, California

Nature of the Dispute: Member vs. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Diane C. Fischer
Kane & Fischer, Ltd.
Chicago, Illinois

For Respondent:

Dermot J. Durnin
San Francisco, California

CASE INFORMATION

Statement of Claim filed: November 8, 2005

Motion of Banc of America Investment Services, Inc. ("BAI") to Bar Respondent Dermot J. Durnin from presenting any facts or defenses at hearing filed: April 7, 2006

Claimant's Exhibit Book filed: May 11, 2006

Claimant's Uniform Submission Agreement signed: October 31, 2005

CASE SUMMARY

Claimant alleged that Respondent breached the terms of his Promissory Note ("the Note") executed on or about September 19, 2003. Claimant also alleged that Respondent failed to repay a commission deficit owed to BAI.

RELIEF REQUESTED

Claimant's Claim requested:

1. The principal balance due and owing under the Note in the amount of \$52,000.00;
2. Interest accrued during the term of the Note at the reduced rate of 6% per annum in the amount of \$3,223.35;
3. Interest at the rate of 6% per annum (\$8.55 per day) on the balance due and owing under the Note from the date of default (September 30, 2004) to the date of payment;
4. Repayment of commission deficit in the amount of \$5,217.00;
5. Interest at the statutory rate from September 30, 2004 through the date of payment of monies owed for commission deficit;
6. Costs of collection and of this proceeding including attorneys' fees as agreed to under the terms of the Note; and
7. Any and all further relief that the Panel deems just and proper.

At hearing, Claimant requested:

1. The principal balance due and owing under the Note in the amount of \$52,000.00;
2. Interest accrued during the term of the Note (September 20, 2003 through September 30, 2004) at the contract rate of 6% per annum (377 days x \$8.55 per day) in the amount of \$2,445.35;
3. Interest at the contract rate of 6% per annum on the balance due and owing under the Note from September 30, 2004 through May 16, 2006 (593 days x \$8.55 per day) in the amount of \$5,070.15;
4. Repayment of commission deficit in the amount of \$5,217.00;
5. Interest on the commission deficit at the legal rate of 7% per annum from September 30, 2004 through May 16, 2006 (593 days x \$1.00 per day) in the amount of \$593.00;
6. Attorneys' fees in the amount of \$7,655.50; and
7. Costs in the amount of \$5,831.18.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution ("NASD-DR") a Statement of Answer or properly executed submission to arbitration. The Panel determined that Respondent has been properly served with Claimant's Statement of Claim and further determined that Respondent is required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and is bound by the determination of the Panel on all issues submitted.

The Panel determined that had Respondent appeared at the hearing session held May 16, 2006, this session would have been to hear Claimant's motion to preclude introduction of evidence by Respondent at an in-person hearing to be held July 25, 2006. Since Respondent did not appear, this issue was moot.

Respondent did not appear at the evidentiary hearing in this matter held May 16, 2006. Pursuant to Rule 10318 of the Code, the Panel determined that Respondent received proper notice of the hearing and ruled to proceed in Respondent's absence.

Claimant 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 for and shall pay to Claimant the sum of \$65,325.50, inclusive of interest.
2. Respondent is liable for and shall pay to Claimant the sum of \$7,655.50 in attorney's fees pursuant to the terms of the Note.
3. Respondent is liable for and shall pay to Claimant the sum of \$5,831.18 in costs.
4. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR 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, BAI is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

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

(1) Pre-hearing conference session with the Panel @ \$750.00/session = \$750.00
Pre-hearing conference: March 7, 2006 1 session

(1) Hearing session @ \$750.00/session = \$750.00
Hearing Date: May 16, 2006 1 session

Total Forum Fees = **\$1,500.00**

The Panel assessed \$750.00 in forum fees to Claimant BAI.

The Panel assessed \$750.00 in forum fees to Respondent Dermot J. Durnin.

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	= \$ 750.00
Total Fees	= \$ 5,300.00
Less Payments	= \$(5,300.00)
Balance Due NASD-DR	= \$ 0.00

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

Forum Fees	= \$ 750.00
Less Payments	= \$(0.00)
Balance Due NASD-DR	= \$ 750.00

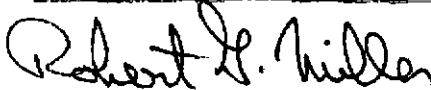
NASD Dispute Resolution
Arbitration No. 05-05695
Award Page 5 of 5

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

ARBITRATION PANEL

Robert G. Miller	-	Non-Public Arbitrator, Presiding Chair
Joseph H. Sturdivant	-	Non-Public Arbitrator
Donald S. Duerson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert G. Miller
Chair, Non-Public Arbitrator

MAY 23, 2006
Signature Date

Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date

Donald S. Duerson
Non-Public Arbitrator

Signature Date

06/02/06
Date of Service

NASD Dispute Resolution
Arbitration No. 05-05695
Award Page 5 of 5

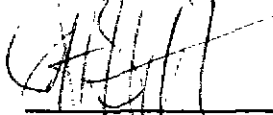
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Robert G. Miller
Chair, Non-Public Arbitrator



Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date

5/27/06

Signature Date

Donald S. Duerson
Non-Public Arbitrator

Signature Date

06/02/06

Date of Service

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Award Page 5 of 5

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Chair, Non-Public Arbitrator

Signature Date

Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date

Donald S. Duerson
Donald S. Duerson
Non-Public Arbitrator

5-24-06
Signature Date

06/02/06
Date of Service