

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Banc of America Investment Services, Inc., Claimant v. Art De La Rosa, Respondent

Art De La Rosa, Counter-Claimant v. Banc of America Investment Services, Inc.,
Counter-Respondent

Case Number: 06-00390

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Associated Person
 Associated Person v. Member

REPRESENTATION OF PARTIES

For Claimant / Counter-Respondent
Banc of America Investment Services, Inc.
("Banc of America"):

Ronald P. Kane, Esq.
Diane C. Fischer, Esq.
David H. Smith, Esq.
Kane & Fischer, Ltd.
Chicago, Illinois

For Respondent / Counter-Claimant
Art De La Rosa ("Art De La Rosa"):

Rhonel T. Aquino, Esq.
Aquino Law Firm
Pasadena, California

CASE INFORMATION

Banc of America's Statement of Claim filed: January 25, 2006

Banc of America's Uniform Submission Agreement signed: January 20, 2006

Statement of Answer filed by Art De La Rosa: March 2, 2006

Banc of America's Reply to Statement of Answer filed: March 16, 2006

Clarification to Statement of Answer filed by Art De La Rosa: March 22, 2006

Amended Statement of Answer and Counterclaim filed by Art De La Rosa: July 6, 2006

Art De La Rosa's Uniform Submission Agreement signed: March 2, 2006

CASE SUMMARY

Banc of America alleged, among other things, that Art De La Rosa is liable for damages in accordance with the terms of a promissory note executed by Art De La Rosa on or about December 2, 2003, which became due and owing to Banc of America upon Art De La Rosa's termination from Banc of America on July 28, 2004.

Except as specifically admitted in his Statements of Answer, Art De La Rosa denied any liability to Banc of America.

In his Counterclaim for fraud, Art De La Rosa alleged that Banc of America misrepresented aspects of his employment prior to his hiring. In addition, Art De La Rosa alleged that there existed a conflict of interest involving Banc of America's manager.

Banc of America has denied any liability as to the matters alleged in Art De La Rosa's Counterclaim.

RELIEF REQUESTED

In the Statement of Claim, Banc of America requested \$80,000.00 in compensatory damages for the principal amount of the promissory note, \$2,682.95 in interest accrued during the term of the promissory note, interest at the rate of 5% per annum on the balance of the promissory note from July 28, 2004 to date of payment, and costs, including attorney's fees.

In his Statements of Answer, Art De La Rosa requested dismissal of Banc of America's Statement of Claim, forgiveness of the promissory note, and that Banc of America pay any interest accrued under the promissory note and all costs associated with the collection, including attorney's fees, filings fees, and arbitration costs.

In his Counterclaim, Art De La Rosa requested \$500,000.00 in lost wages and benefits, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On July 6, 2006, Art De La Rosa filed a Motion to File an Amended Statement of Answer and Counterclaim pursuant to the NASD Code of Arbitration Procedure Rule 10328(b). On July 26, 2006, Banc of America filed a Response to Art De La Rosa's Motion to File and Amended Answer and Counterclaim. On July 31, Art De La Rosa filed a Reply in support of his motion. On August 3, 2006, after due deliberation, the Panel issued an Order granting Art De La Rosa's Motion to File an Amended Statement of Answer and Counterclaim.

On October 2, 2006, prior to the hearing in this matter, Banc of America notified NASD Dispute Resolution that the parties had agreed to enter into a Stipulated Award and to keep the current Arbitration Panel consisting of three non-public arbitrators.

The parties agreed to receive conformed copies of the Stipulated Award while the original remains on file with NASD Dispute Resolution.

The parties agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings and the parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Banc of America and Art De La Rosa have entered into a confidential settlement agreement.
2. Art De La Rosa shall pay to Banc of America the total sum of \$116,972.07, as follows: \$80,000.00 as principal balance under the promissory note, \$11,111.19 in accrued interest under the promissory note through September 5, 2006, \$5,885.88 in costs, and \$19,975.00 in attorney's fees.
3. Art De La Rosa shall pay to Banc of America interest at the rate of 5% per annum from September 5, 2006 until the Stipulated Award is paid in full.
4. Except as otherwise specified herein, each party shall bear its own costs and attorney's fees.

5. 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:

Banc of America's Initial Claim filing fee	= \$ 1,000.00
Art De La Rosa's Counterclaim filing fee	= \$ 300.00

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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Banc of America 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>
Total Member Fees	= \$ 3,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

2 Decisions on discovery-related motions on the papers with one arbitrator @ \$200.00	= \$ 400.00
Banc of America submitted one discovery-related motion	
Art De La Rosa submitted one discovery-related motion	

1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: May 23, 2006	1 session

Total Forum Fees	= \$ 1,525.00
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1. Pursuant to party stipulation, \$762.50 of the forum fees are assessed to Banc of America.
2. Pursuant to party stipulation, \$762.50 of the forum fees are assessed to Art De La Rosa.

Fee Summary

1. Banc of America is charged with the following fees and costs:

Initial Claim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,550.00
Forum Fees	= \$ 762.50
Total Fees	= \$ 5,312.50
Less payments	= \$(5,300.00)
Balance Due NASD Dispute Resolution	= \$ 12.50

2. Art De La Rosa is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 300.00
Forum Fees	= \$ 762.50
Total Fees	= \$ 1,062.50
Less payments	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 1,062.50

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

Kathryn L. Krebs	-	Non-Public Arbitrator, Presiding Chair
Curtis H. Baer	-	Non-Public Arbitrator
Grace L. Heyne	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Kathryn L. Krebs
Chair, Non-Public Arbitrator

11/6/06

Signature Date

Curtis H. Baer
Non-Public Arbitrator

Signature Date

Grace L. Heyne
Non-Public Arbitrator

Signature Date

November 6, 2006

Date of Service

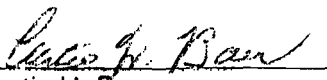
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Non-Public Arbitrator



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Non-Public Arbitrator

11-03-2006
Signature Date

November 6, 2006
Date of Service