

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Charles C. Tibbetts and Richard S. Kelsey, Claimants v. Joanne M. Dunlap and Mutual Service Corporation, Respondents

Case Number: 00-00590

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Charles C. Tibbetts  
In Pro Per  
Orange, California

For Respondents:

Kari S. Turigliatto, Esq.  
Mutual Service Corporation  
Irvine, California

**CASE INFORMATION**

Statement of Claim filed: February 8, 2000

Claimants' Uniform Submission Agreement filed: February 8, 2000

Joint Statement of Answer filed by Respondents: March 30, 2000

Respondent Joanne M. Dunlap's Uniform Submission Agreement signed: March 21, 2000

Respondent Mutual Service Corporation's Uniform Submission Agreement signed: March 7, 2000

**CASE SUMMARY**

Claimants alleged that Respondents failed to timely close Claimants' account, resulting in a loss of asset value of the Claimants' Franklin Templeton California Tax Free Income mutual fund.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$7,202.90 in compensatory damages.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety.

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

The parties agreed that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, testimony, and evidence presented at the hearing, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents are jointly and severally liable to and shall pay Claimants \$7,203.00 in compensatory damages.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) 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, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 75.00
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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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Mutual Service Corporation is a party and the following fees are assessed:

Member Surcharge	= \$ 300.00
Total Member Fees	= \$ 300.00

**Forum Fees and Assessments**

The Arbitrator 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 Arbitrator. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 250.00/session = \$ 250.00  
Pre-hearing conference: October 18, 2000 1 session

(2) Hearing sessions @ \$ 250.00/session = \$ 500.00  
Hearings: January 16, 2001 2 sessions

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Total Forum Fees = \$ 750.00

The Arbitrator assessed \$ 750.00 of the forum fees jointly and severally to Claimants Charles C. Tibbetts and Richard S. Kelsey.

**Fee Summary**

1. Claimants Charles C. Tibbetts and Richard S. Kelsey are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 75.00	Initial Filing Fee
<u>Forum Fees</u>	<u>= \$ 750.00</u>	Forum Fees
Total Fees	= \$ 825.00	Total Fees
<u>Less Payments</u>	<u>= \$(325.00)</u>	Less Payments
Balance Due NASD Dispute Resolution, Inc.	= \$ 500.00	Balance Due NASD Dispute Resolution, Inc.

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

Member Fees	= \$ 300.00
<u>Less Payments</u>	<u>= \$(300.00)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are payable to NASD Dispute Resolution, Inc. and are to be paid upon the receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

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Arbitrator's Signature



David C. Hinshaw, Esq.  
Chair, Public Arbitrator

January 18, 2001  
Signature Date

January 19, 2001  
Date of Service