

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

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In the Matter of the Arbitration Between

**Name of Claimant**

May Financial Corporation

Case No. 01-02137

Hearing Site: Boca Raton, Florida

**Name of Respondent**

Atlantic Coast Capital Management, LTD

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**REPRESENTATION OF PARTIES**

For May Financial Corporation ("May") hereinafter referred to as "Claimant": Corbet F. Bryant, Jr., Carrington, Coleman, Sloman & Blumenthal, Dallas, Texas.

Respondent Atlantic Coast Capital Management, LTD ("Atlantic") did not appear.

**CASE INFORMATION**

Statement of Claim filed on or about: April 27, 2001.

Claimant signed the Uniform Submission Agreement: May 15, 2001.

Respondent did not file a Statement of Answer or an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following: 1) Respondent breached its Margin and Short Account Agreement with Claimant; 2) Respondent failed to repay Claimant monies that Respondent borrowed from Claimant; and, 3) Respondent failed to deposit sufficient sums to cover its deficient positions. The claims relate to unspecified securities transactions.

**RELIEF REQUESTED**

Claimant requested compensatory damages of \$696,872.66, plus pre-judgment and post-judgment interest, attorney's fees, the costs of this proceeding and such other relief as is deemed just and proper.

**OTHER ISSUES CONSIDERED AND DECIDED**

Respondent did not appear at the evidentiary hearing. Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without

said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code"). Service was effected in accordance with the Code via service by mail upon Respondent Atlantic at the address which its president provided for the account in question, Shirlaw House, Shirley Street, P.O. Box 19084, Nassau, The Bahamas. Further, Respondent did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted based upon the Margin & Short Account Agreement executed by Respondent.

Further, the Panel specifically finds that Respondent Atlantic entered into a written arbitration agreement when it opened its account requiring that it arbitrate any disputes arising from its securities account. Over the course of the account, Respondent Atlantic never deposited any monies in the account but did withdraw \$5,000.00 on or about October 26, 2000. Respondent Atlantic borrowed money from Claimant to pay for the securities that it acquired in the account. Respondent did not meet margin calls that took place in the account and ultimately the account was liquidated, concluding in early March 2001. After all credits were given for the securities liquidated, Respondent still owed Claimant \$696,872.66. No payment has been made. Therefore, there is due and owing to Claimant the deficiency in the account, plus interest and reasonable and necessary attorney's fees.

The party present at the hearing agreed that the Award in this matter may be executed in counterpart copies or that a handwritten signed Award may be entered. In either case, the party present at the hearing has agreed to receive conformed copies of the Award while the original remains on file with NASD Dispute Resolution, Inc.

#### AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Atlantic is liable and shall pay to Claimant the sum of \$696,872.66 in compensatory damages, plus pre-judgment interest of \$49,066.44. Post-judgment interest shall accrue on the above referenced amounts at the rate of ten percent (10%) per annum from March 30, 2001 until the amount is paid in full.

Respondent is liable and shall pay to Claimant the sum of \$5,000.00 as reasonable and necessary attorney's fees. In making this award of attorney's fees, the Panel reviewed and considered all pleadings, documents, briefs, and oral argument of counsel, and finds that authority exists for the award of attorney's fees pursuant to Texas Statutes 38.001.

Respondent is liable and shall pay to Claimant the sum of \$1,250.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

Any and all other requests for relief not specifically addressed herein, are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

|                          |              |
|--------------------------|--------------|
| Initial claim filing fee | = \$1,250.00 |
|--------------------------|--------------|

#### **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 a party.

|                         |              |
|-------------------------|--------------|
| Member surcharge        | = \$2,000.00 |
| Pre-hearing process fee | = \$ 600.00  |
| Hearing process fee     | = \$3,500.00 |

#### **Adjournment Fees**

No adjournments were requested during these proceedings.

#### **Forum Fees and Assessments**

The panel has the authority to assess forum fees for each hearing session conducted. A hearing 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 \$1,200.00 | = \$1,200.00 |
| Pre-hearing conference: October 12, 2001            | 1 session    |

|                                      |              |
|--------------------------------------|--------------|
| One (1) Hearing session x \$1,200.00 | = \$1,200.00 |
| Hearing Date: December 13, 2001      | 1 session    |

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|                  |              |
|------------------|--------------|
| Total Forum Fees | = \$2,400.00 |
|------------------|--------------|

The panel has assessed the total forum fees of \$2,400.00 to Respondent Atlantic.

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant be and hereby is solely liable for:

|   |              |
|---|--------------|
| Initial Filing Fee                        | = \$1,250.00 |
| Member Fees                               | = \$6,100.00 |
| <hr/>                                     |              |
| Total Fees                                | = \$7,350.00 |
| Less payments                             | = \$7,350.00 |
| <hr/>                                     |              |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 0.00    |

Respondent Atlantic be and hereby is solely liable for:

|   |              |
|---|--------------|
| Forum Fees                                | = \$2,400.00 |
| <hr/>                                     |              |
| Total Fees                                | = \$2,400.00 |
| Less payments                             | = \$ 0.00    |
| <hr/>                                     |              |
| Balance Due NASD Dispute Resolution, Inc. | = \$2,400.00 |

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

**ARBITRATION PANEL**

|                                   |   |   |
|-----------------------------------|---|---|
| <i>Elizabeth P. Johnson, Esq.</i> | - | <i>Public Arbitrator, Presiding Chair</i> |
| <i>Melvin Jarolem</i>             | - | <i>Public Arbitrator</i>                  |
| <i>Harry Dressler</i>             | - | <i>Non-Public Arbitrator</i>              |

**Concurring Arbitrators' Signature**

\_\_\_\_\_  
/s/  
Elizabeth P. Johnson, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
/s/  
Melvin Jarolem  
Public Arbitrator

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

/s/

Harry Dressler  
Non-Public Arbitrator

Signature Date

January 23, 2002

Date of Service (For NASD-Dispute Resolution office use only)

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$1,250.00  
Member Fees = \$6,100.00

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Total Fees = \$7,350.00  
Less payments = \$7,350.00

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Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondent Atlantic be and hereby is solely liable for:

Forum Fees = \$2,400.00

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Total Fees = \$2,400.00  
Less payments = \$ 0.00

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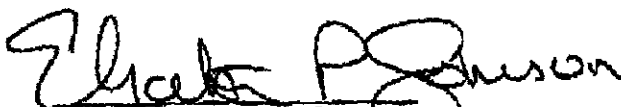
Balance Due NASD Dispute Resolution, Inc. = \$2,400.00

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

ARBITRATION PANEL

|                            |   |                                    |
|----------------------------|---|------------------------------------|
| Elizabeth P. Johnson, Esq. | - | Public Arbitrator, Presiding Chair |
| Melvin Jarolem             | - | Public Arbitrator                  |
| Harry Dressler             | - | Non-Public Arbitrator              |

Concurring Arbitrators' Signature

  
Elizabeth P. Johnson, Esq.  
Public Arbitrator, Presiding Chair

1/22/01  
Signature Date

\_\_\_\_\_  
Melvin Jarolem  
Public Arbitrator

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

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant be and hereby is solely liable for:

|   |                    |
|---|--------------------|
| Initial Filing Fee                              | = \$1,250.00       |
| Member Fees                                     | = \$6,100.00       |
| <hr/> Total Fees                                | <hr/> = \$7,350.00 |
| Less payments                                   | = \$7,350.00       |
| <hr/> Balance Due NASD Dispute Resolution, Inc. | <hr/> = \$ 0.00    |

Respondent Atlantic be and hereby is solely liable for:

|   |                    |
|---|--------------------|
| Forum Fees                                      | = \$2,400.00       |
| <hr/> Total Fees                                | <hr/> = \$2,400.00 |
| Less payments                                   | = \$ 0.00          |
| <hr/> Balance Due NASD Dispute Resolution, Inc. | <hr/> = \$2,400.00 |

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

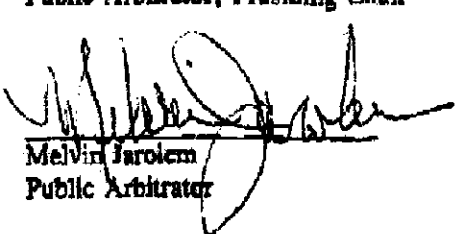
**ARBITRATION PANEL**

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| Melvin Jarolem             | - | Public Arbitrator                  |
| Harry Dressler             | - | Non-Public Arbitrator              |

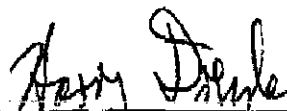
**Concurring Arbitrators' Signature**

Elizabeth P. Johnson, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

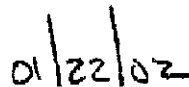
  
Melvin Jarolem  
Public Arbitrator

1-18-02  
Signature Date



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Harry Dressler  
Non-Public Arbitrator



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Signature Date

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Date of Service (For NASD-Dispute Resolution office use only)