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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Laura Jean Haughie

Case Number: 03-00121

Name of the Respondent

Dreyfus Service Corporation  
Shawn Kelley

Hearing Site: Boca Raton, FL

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For Laura Jean Haughie ("Haughie"), hereinafter referred to as "Claimant": Alan J. Foxman, Esq. Alan J. Foxman, P.A., Boca Raton, Florida.

For Dreyfus Service Corporation ("DSC") and Shawn Kelley ("Kelley"), hereinafter referred to as "Respondents": Joel S. Forman, Curtis, Mallet-Prevost, Colt & Mosle LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: December 31, 2002.

Amended Statement of Claim filed on or about: January 21, 2003.

Claimant signed the Uniform Submission Agreement: February 21, 2003.

Statement of Answer filed by Respondents on or about: April 24, 2003.

Respondent DSC signed the Uniform Submission Agreement: March 4, 2003.

Respondent Kelley signed the Uniform Submission Agreement: April 1, 2003.

Motion to Dismiss filed by Respondents on or about: May 18, 2004.

Motion to Dismiss filed by Respondents on or about: July 29, 2004.

Response to Motion to Dismiss filed by Claimant on or about: September 24, 2004.

Motion Requesting Expungement filed by Respondents on or about: October 28, 2004.

Response to Motion Requesting Expungement filed by Claimant on or about: November 12, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of contract; 2) fraud and misrepresentation; 3) negligence; and 4) failure to supervise. The causes of action relate to purchases in Dreyfus Premier Tech Growth Fund, Janus Enterprise Fund, PBHG Technology fund and in a Dreyfus Lion account.

Respondents requested that all claims against them be dismissed and for such other and further relief as is deemed just and proper.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$94,390.00, plus interest, costs and attorneys' fees.

Respondents requested: 1) that the Statement of Claim be dismissed with prejudice; 2) that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") records of Respondent Kelley; 3) reimbursement of member surcharges relating to this arbitration and the assessment of all forum fees against claimant; and 4) that Respondents be awarded their costs, including attorney's fees, of defending this proceeding.

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

On or about July 9, 2004, the undersigned arbitrators (the "Panel") entered an Order denying Respondents' May 18, 2004 Motion to Dismiss.

On or about October 21, 2004, the Panel entered an Order granting Respondent's July 29, 2004 Motion to Dismiss without prejudice.

On or about December 28, 2004, the Panel entered an Order supplementing its prior Order of October 21, 2004 to grant Respondents' Motion Requesting Expungement of this arbitration proceeding from the registration records of Respondent Kelley maintained by NASD CRD.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings and the oral argument of the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to the above-captioned arbitration from Respondent Kelley's public and non-public registration records maintained by NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Kelley must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee = \$ 225.00

**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. Accordingly, Respondent DSC is a member firm and a party.

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

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

July 20 through 23, 2004 hearing dates, adjournment requested by Respondents. The Panel assessed the \$750.00 adjournment fee to Claimant.

**Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation fees were incurred during these proceedings.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. 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:

Four (4) Pre-hearing sessions with the Panel @ \$750.00	= \$3,000.00
Pre-hearing conferences:	
September 10, 2003	1 session
June 30, 2004	1 session
October 21, 2004	1 session
December 28, 2004	1 session
Total Forum Fees	= \$3,000.00

The Panel has assessed \$2,250.00 of the forum fees to Claimant.

The Panel has assessed \$750.00 of the forum fees jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 750.00
<u>Forum Fees</u>	<u>= \$2,250.00</u>
Total Fees	= \$3,225.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$2,250.00

Respondent DSC is solely liable for:

<u>Member Fees</u>	<u>= \$3,550.00</u>
Total Fees	= \$3,550.00
<u>Less payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents DSC and Kelley are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 750.00</u>
Total Fees	= \$ 750.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

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

**ARBITRATION PANEL**

Patricia J. Murphy, J.D.	-	Public Arbitrator, Presiding Chairperson
Lawrence S. Silver, Esq.	-	Public Arbitrator
Robert C. Sauer	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Patricia J. Murphy, J.D.  
Public Arbitrator, Presiding Chairperson

January 10, 2005  
Signature Date

/s/  
Lawrence S. Silver, Esq.  
Public Arbitrator

January 11, 2005  
Signature Date

/s/  
Robert C. Sauer  
Non-Public Arbitrator

January 11, 2005  
Signature Date

January 12, 2005  
Date of Service (For NASD Dispute Resolution office use only)

The Panel has assessed \$750.00 of the forum fees jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Adjournment Fee	= \$ 750.00
<u>Forum Fees</u>	<u>= \$2,250.00</u>
Total Fees	= \$3,225.00
<u>Less payments</u>	<u>= \$ 975.00</u>
Balance Due NASD Dispute Resolution	= \$2,250.00

Respondent DSC is solely liable for:

<u>Member Fees</u>	<u>= \$3,550.00</u>
Total Fees	= \$3,550.00
<u>Less payments</u>	<u>= \$3,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents DSC and Kelley are jointly and severally liable for:

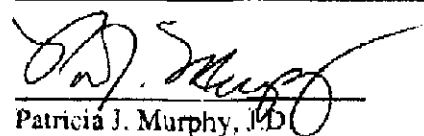
<u>Forum Fees</u>	<u>= \$ 750.00</u>
Total Fees	= \$ 750.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

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

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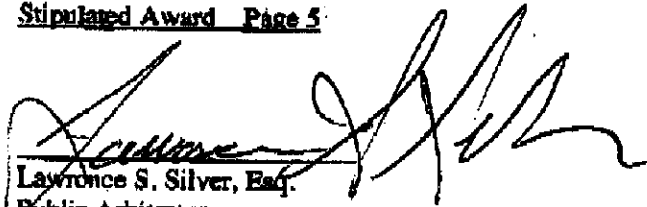
**Concurring Arbitrators' Signatures**



Patricia J. Murphy, J.D.  
Public Arbitrator, Presiding Chairperson

1/10/05  
Signature Date

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Lawrence S. Silver, Esq.  
Public Arbitrator

1-11-05  
Signature Date

Robert C. Sauer  
Non-Public Arbitrator

Signature Date

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

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Arbitration No. 03-00121  
Stipulated Award Page 5

Lawrence S. Silver, Esq.  
Public Arbitrator

Robert C. Sauer  
Robert C. Sauer  
Non-Public Arbitrator

Signature Date

1-11-05  
Signature Date

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