

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

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In the Matter of the Arbitration Between:

Kent G. McKernon, (Claimant) vs. Galaxy Funds and Fleet Bank of Massachusetts, NA,  
(Respondents)

Case Number: 99-04980

Hearing Site: Albany, New York

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**REPRESENTATION OF PARTIES**

Claimant, Kent G. McKernon, hereinafter referred to as "Claimant": David B. Avigdor, Esq.,  
a sole practitioner, Hadley, NY.

Respondents, Galaxy Funds ("Galaxy") and Fleet Bank of Massachusetts, NA ("Fleet"),  
hereinafter collectively referred to as "Respondents": Mary Catherine Roper, Esq., Drinker  
Biddle & Reath LLP, Philadelphia, PA.

**CASE INFORMATION**

Statement of Claim filed on or about: November 1, 1999.

Claimant signed the Uniform Submission Agreement: October 28, 1999.

Joint Statement of Answer filed by Respondents on or about: February 4, 2000.

Galaxy signed the Uniform Submission Agreement: February 4, 2000.

Fleet signed the Uniform Submission Agreement: February 4, 2000.

**CASE SUMMARY**

Claimant asserted the following cause of action: Respondent inappropriately transferred  
excessive funds from Claimant's account to Claimant's ex-wife.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the  
Statement of Claim and asserted the following defenses: Claimant directed Respondents to  
transfer 100% of his account to his ex-wife and Respondents did exactly what Claimant  
instructed them to do.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$6,993.35, plus interest, costs of arbitration, and legal expenses.

Respondents requested that Claimant's claim be denied.

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

The parties have 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, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby denied in their entirety.
2. All other requests for relief are hereby 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 = \$ 75.00

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

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$250.00 = \$250.00  
Pre-hearing conference: June 15, 2000 1 session

Two (2) Hearing sessions x \$250.00	= \$500.00
Hearing Date: July 27, 2000      2 sessions	
Total Forum Fees	= \$750.00

The Arbitrator has assessed all of the forum fees against Claimant.

**Fee Summary**

1. Claimant be and hereby is solely liable for:	
Initial Filing Fee	= \$ 75.00
<u>Forum Fees</u>	<u>= \$750.00</u>
Total Fees	= \$825.00
<u>Less payments</u>	<u>= \$325.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$500.00

All balances are due and payable to NASD Dispute Resolution, Inc.

NASD Dispute Resolution, Inc.

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**Arbitrator's Signature**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Edward A. Battisti  
Public Arbitrator

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Signature Date

September 1, 2000

Date of Service (For NASD office use only)