

**Award
NASD Regulation, Inc.**

In the Matter of the Arbitration Between:
The Moran Fund LP, Claimant vs. Discover Brokerage Direct, Inc., Respondent.

Case Number: 99-00166

Hearing Site: Salt Lake City, Utah

REPRESENTATION OF PARTIES

Claimant, The Moran Fund LP, hereinafter referred to as "Claimant": Amedee D. Moran, Salt Lake City, Utah

Respondent, Discover Brokerage Direct, Inc. ("Discover Brokerage"), hereinafter referred to as "Respondent": Robert Sullwold, Esq., Sullwold & Hughes, San Francisco, California

CASE INFORMATION

Statement of Claim filed on or about: January 13, 1999

Claimant, The Moran Fund LP, signed the Uniform Submission Agreement: October 9, 1999

Statement of Answer filed by Respondent, Discover Brokerage Direct, Inc., on or about: March 19, 1999

Respondent, Discover Brokerage Direct, Inc., signed the Uniform Submission Agreement: March 19, 1999

CASE SUMMARY

Claimant alleged that its account suffered damages with respect to Claimant's day order to buy 10,000 shares of Boeing Co. stock at 43 11/16 on margin and further alleged that Respondent is liable for the losses sustained in Claimant's account.

Respondent alleged that on November 23, 1998, Claimant placed an order to buy 10,000 shares of Boeing Co. stock at 43 11/16, good for the day. Respondent further alleged that the market maker to which the order was sent filled the buy order at the limit price that day and alleged that the fill was not reported back to Discover Brokerage until November 25. Respondent further alleged that Discover Brokerage immediately notified Claimant that the order had filled. Respondent further alleged that Claimant cannot avoid the consequence of its investment decision because of a late report and further alleged that Claimant has failed to mitigate its alleged damages.

RELIEF REQUESTED

Claimant's Claim requested compensatory damages, interest and punitive damages totaling \$238,445.00.

Respondent requested that Claimant's Claim be dismissed in its entirety; that all costs and expenses of this arbitration be borne by Claimant; and for such other and further relief as is equitable under the circumstances.

OTHER ISSUES CONSIDERED AND DECIDED

On or about September 14, 1999, the parties agreed that The Moran Fund LP is the Claimant in this matter instead of Amedee D. Moran.

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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Discover Brokerage is liable for and shall pay to Claimant The Moran Fund LP the sum of \$23,125.00, in satisfaction of Claimant's claims.
2. Claimant's claim for punitive damages is denied.
3. The parties shall each bear their respective costs including attorney's fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$200.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,500.00

Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel x \$750.00	= \$750.00
Pre-hearing conference: September 14, 1999 1 session	

Two (2) Hearing sessions x \$750.00	= \$1,500.00
Hearing Date: December 20, 1999 2 sessions	

Total Forum Fees	= \$2,250.00
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1. The Panel has assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,125.00 of the forum fees to Respondent.

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.

Fee Summary

1. Claimant, be and hereby is solely liable for:

Initial Filing Fee	= \$ 200.00
Member Fees	= \$ 0.00
Forum Fees	= \$1,125.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$1,325.00
<u>Less payments</u>	= \$1,050.00
Balance Due NASD Regulation, Inc.	= \$ 275.00

2. Respondent, be and hereby is solely liable for:


Initial Filing Fee	= \$ 0.00
Member Fees	= \$4,600.00
Forum Fees	= \$1,125.00
<u>Administrative Costs</u>	= \$ 0.00

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Total Fees	= \$5,725.00
Less payments	= \$4,600.00
Balance Due NASD Regulation, Inc.	= \$1,125.00

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signatures



Randall L. Marshall, Esq.
Public Arbitrator, Presiding Chair

3-8-00

Signature Date

Marlene Sine
Public Arbitrator

Signature Date

Stephen B. Ivey
Industry Arbitrator

Date Served:

MAR 22 2000

Signature Date

Date of Service (For NASD office use only)

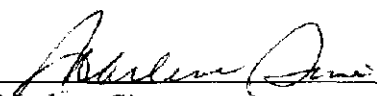
Total Fees	= \$5,725.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$1,125.00

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signatures

Randall L. Marshall, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Marlene Sine
Public Arbitrator

3-12-00

Signature Date

Stephen B. Ivey
Industry Arbitrator

Signature Date

Date Served:

MAR 22 2000

Date of Service (For NASD office use only)

Total Fees	= \$5,725.00
<u>Less payments</u>	<u>= \$4,600.00</u>
Balance Due NASD Regulation, Inc.	= \$1,125.00

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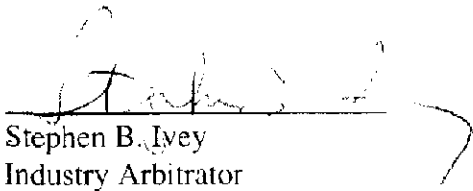
Concurring Arbitrators' Signatures

Randall L. Marshall, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Marlene Sine
Public Arbitrator

Signature Date


Stephen B. Ivey
Industry Arbitrator

3-9-00
Signature Date

Date Served:

MAR 22 2000

Date of Service (For NASD office use only)