

**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

James E. Bergeron

vs.

Case No. 99-01264

Name of Respondent

Charles M. Bowles

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**REPRESENTATION OF PARTIES**

Claimant, James E. Bergeron, hereinafter referred to as "Claimant": Douglas R. Lally, Esq., Jenkintown, Pennsylvania.

Respondent, Charles M. Bowles, hereinafter referred to as "Respondent," did not appear.

**CASE INFORMATION**

Statement of Claim filed on or about: April 23, 1999

Claimant, (Name), signed the Uniform Submission Agreement: April 4, 1997

Respondent did not file a Statement of Answer or an agreement to arbitrate.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty; unsuitability, misrepresentations and omissions of material facts; fraud; and negligence. The causes of action relate to the unsuitable purchase and sale of 600 shares of Cascade Communications Corp. stock.

Respondent did not respond to the allegations raised by Claimant.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$30,000.00
Punitive Damages	Amount Not Specified
Interest	Amount Not Specified
Attorneys' Fees	Amount Not Specified
Other Costs	Amount Not Specified

Respondent did not request relief.

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

Upon review of the file and the signed receipt of communications from the NASD Regulation Office of Dispute Resolution ("NASD") and the representations made by/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").

Respondent did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code, is bound by the determination of the Panel on all issues submitted.

The Panel considered Claimant's Motion for Default Judgment against Respondent but denied the Motion.

The parties in attendance 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.

### **AWARD**

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

1. That Respondent is liable to and shall pay to Claimant \$14,526.00, inclusive of pre-award interest; and
2. That Respondent is liable to and shall pay to Claimant nine percent (9%) interest per annum on the amount awarded from March 7, 2000 until paid; and

3. That Respondent is liable to and shall reimburse directly to Claimant \$100.00, for the filing fee submitted with the Statement of Claim; and
4. That each party is responsible for their own costs and expenses, including attorneys' fees, with the exception of forum fees as specified below; and
5. That any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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	= \$100.00
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#### **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 event(s) giving rise to the dispute. In this matter, the member firm, Cohig & Associates, employed Respondent at the time of the events giving rise to the dispute.

Member surcharge	= \$600.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$1,000.00

#### **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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

1 Pre-hearing session with Panel x \$400.00	= \$400.00
Pre-hearing conference: November 3, 1999 1 session	
1 Hearing session x \$400.00	= <u>\$400.00</u>
Hearing Date: March 7, 2000 1 session	
Total Forum Fees	= \$800.00

The Panel assessed \$800.00 of the forum fees to Respondent Bowles.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$100.00
Total Fees	= \$100.00
Less payments	= \$500.00
Balance to be refunded to Claimant	= \$400.00

Respondent is solely liable for:

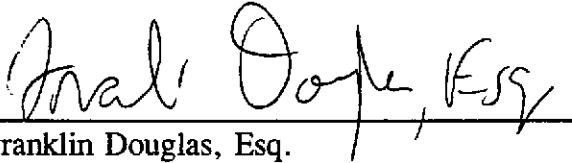
Forum Fees	= \$800.00
Total Fees	= \$800.00
Less payments	= \$ -0-
Balance Due NASD Regulation, Inc.	= \$800.00

Member Firm, Cohig & Associates is liable for:

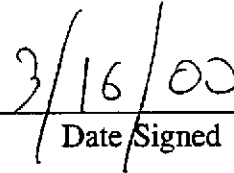
Member Fees	= \$2,200.00
Less payments	= \$2,200.00
Balance Due NASD Regulation, Inc.	= \$ -0-

All balances are due and payable to NASD Regulation, Inc.

**Concurring Arbitrators' Signatures**



Franklin Douglas, Esq.  
Public Arbitrator, Presiding Chair

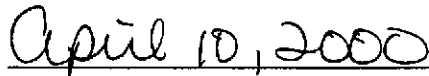
  
Date Signed

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Paul J. Greco, Esq.  
Public Arbitrator

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Jan R. Carr, CFP  
Industry Arbitrator

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Date Signed



Date of Service (For NASD office use only)

**Concurring Arbitrators' Signatures**

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Franklin Douglas, Esq.  
Public Arbitrator, Presiding Chair




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Paul J. Greco, Esq.  
Public Arbitrator

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Date Signed



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Date Signed

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Jan R. Carr, CFP  
Industry Arbitrator

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Date Signed

April 10, 2000

Date of Service *(For NASD office use only)*

**Concurring Arbitrators' Signatures**

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Franklin Douglas, Esq.  
Public Arbitrator, Presiding Chair

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Date Signed

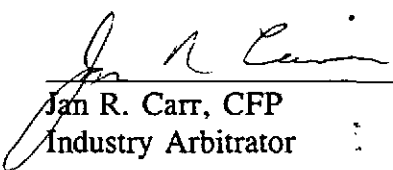
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Paul J. Greco, Esq.  
Public Arbitrator

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Date Signed

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Jan R. Carr, CFP  
Industry Arbitrator

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3/15/00  
Date Signed

April 10, 2000  
Date of Service (For NASD office use only)