

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

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In the Matter of the Arbitration Between:

Douglas S. Hughes, (Claimant) vs. Discover Brokerage Direct and Lombard Institutional Brokerage (Respondents)

Case Number: 99-02308

Hearing Site: New York, NY

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**REPRESENTATION OF PARTIES**

Claimant, Douglas S. Hughes, hereinafter referred to as "Claimant": Agnes S. Park Esq., Honen & Wood, P.C., Albany, NY.

Respondent, Discover Brokerage Direct ("Discover"): Robert T. Sullwold, Esq., Sullwold & Hughes, San Francisco, CA.

Respondent, Lombard Institutional Brokerage ("Lombard"): Robert T. Angle, San Francisco, CA.

**CASE INFORMATION**

Statement of Claim filed on or about: May 13, 1999.

Claimant signed the Uniform Submission Agreement: May 14, 1999.

Statement of Answer filed by Discover on or about: July 29, 1999.

Discover signed the Uniform Submission Agreement: July 30, 1999.

Lombard did not file a Statement of Answer or sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following cause of action: negligence.

Unless specifically admitted in its Answer, Respondent Discover denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; assumption of the risks; failure to mitigate; and, negligence.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$128,115.94
Attorneys' Fees	unspecified
Other Monetary Relief:	unspecified

Respondent Discover requested an award dismissing the Statement of Claim in its entirety.

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

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Lombard had 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 Lombard present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Lombard did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission for 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.

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. 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 Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:  
Initial claim filing fee = \$ 300.00

#### **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(s) at the time of the event giving rise to the dispute. In this matter, Discover Brokerage Direct 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 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 \$1,125.00	= \$1,125.00
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Pre-hearing conference: December 16, 1999	1 session
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Two (2) Hearing sessions x \$1,125.00	= \$2,250.00
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Hearing Date: February, 8, 2000	2 sessions
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Total Forum Fees	= \$3,375.00
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1. The Panel has assessed \$1,687.50 of the forum fees against Claimant.
2. The Panel has assessed \$1,687.50 of the forum fees against Discover.

### **Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
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Forum Fees	= \$1,687.50
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Total Fees	= \$1,987.50
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Less payments	= \$1,425.00
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Balance Due NASD Regulation, Inc.	= \$ 562.50
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2. Discover be and hereby is solely liable for:

Member Fees	= \$4,600.00
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Forum Fees	= \$1,687.50
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Total Fees	= \$6,287.50
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Less payments	= \$4,600.00
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Balance Due NASD Regulation, Inc.	= \$1,687.50
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All balances are due and payable to NASD Regulation, Inc.

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LLA

**Concurring Arbitrators' Signatures**

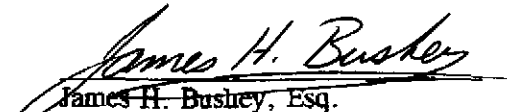
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

\_\_\_\_\_  
Donald G. Hatt, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
James R. Greene  
Public Arbitrator

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

  
\_\_\_\_\_  
James H. Bushey, Esq.  
Industry Arbitrator

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

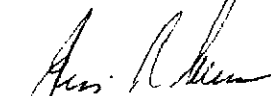
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March 17, 2000  
Date of Service (For NASD office use only)

**Concurring Arbitrators' Signatures**

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Donald G. Hatt, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

  
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James R. Greene  
Public Arbitrator

3-14-00  
\_\_\_\_\_  
Signature Date

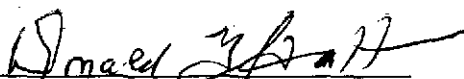
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James H. Bushey, Esq.  
Industry Arbitrator

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