

5/1/99

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

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In the Matter of the Arbitration Between:

Robert Russell Guastucci and Shelley Hyde Guastucci. (Claimants) vs. Discover Brokerage Direct, Inc., and its Successor, Morgan Stanley Dean Witter Online, Inc., (Respondent).

Case Number: 99-02824

Hearing Site: San Francisco, CA

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**REPRESENTATION OF PARTIES**

Claimants, Robert R. Guastucci and Shelley H. Guastucci, (hereinafter collectively referred to as "Claimants"): *In Pro Per*, 129 Danmouth Road, San Mateo, CA 94402.

Respondent, Discover Brokerage Direct, Inc., and its successor, Morgan Stanley Dean Witter Online, Inc., (hereinafter referred to as "Respondent"): Robert T. Sullwold, **Esq.**, Sullwold & Hughes, 235 Montgomery Street, Suite 730, San Francisco, CA 94104.

**CASE INFORMATION**

Statement of Claim filed on or about: June 22, 1999

Claimants signed the Uniform Submission Agreement: June 12, 1999

Statement of Answer filed by Respondent on or about: August 19, 1999

Respondent signed the Uniform Submission Agreement: August 18, 1999

**CASE SUMMARY**

Claimants alleged the following: Respondent made misrepresentations and failed to properly execute Claimants' market order to purchase the common stock of Broadcom Corporation.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: The risks of the market order should be borne by the Claimants: Respondent validly accepted Claimants' order and Claimants could have placed a limit order when purchasing the Broadcom Corporation stock.

**RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$10,336
Costs for Filing Fees	\$555

Respondent requested:

Attorneys' Fees

Other Costs

Other Relief

Reasonable attorneys' fees.

Forum fees and other costs of arbitration.

Such other and further relief as may be Just and equitable.

**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. Claimants are awarded the sum of Ten Thousand Dollars (\$10,000) against Respondent Discover Brokerage Direct, Inc., and/or its successor. Morgan Stanley Dean Witter Online. Inc.
2. Claimants are awarded interest on the amount awarded in paragraph 1 of the Award section at the rate of ten percent (10%) per annum, such interest to commence thirty (30) days after the service of this Award.
3. All other claims are denied in their entirety

**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 = \$125

### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings. In this matter, the member firm is a party.

Member surcharge	= \$400
Pre-hearing process fee	= \$ 0
<u>Hearing process fee</u>	<u>= \$ 0</u>
Total Member Fees:	= \$400

### **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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450	= \$900
Pre-hearing conferences: January 10,2000	I session
April 7,2000	I session
One (1) Hearing session x \$450	= \$450
<u>Hearing Date: April 18,2000</u>	<u>I session</u>
Total Forum Fees	= \$1350

1. The Arbitrator has assessed \$675 of the forum fees jointly and severally against the Claimants. The amount represents one-half of the cost of the January 10, 2000 pre-hearing conference session, and the entire cost of the April 7, 2000 pre-hearing conference session.
2. The Arbitrator has assessed \$675 of the forum fees to the Respondent. The amount represents one-half of the January 10,2000pre-hearing conference session. and the entire cost of the April 18, 2000 evidentiary hearing session.

### **Fee Summary**

Claimants, be and hereby is solely liable for:

Initial Filing Fee	= \$ 125
<u>Forum Fees</u>	<u>= \$ 675</u>
Total Fees	= \$ 800
<u>Less payments</u>	<u>= \$ 575</u>
Balance Due NASD Regulation, Inc.	= \$ 225

Respondent, be and hereby is solely liable for:

Member Fees	= \$ 400
<u>Forum Fees</u>	<u>= \$ 675</u>
Total Fees	= \$ 1075

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Less payments	= \$ 400
Balance Due NASD Regulation, Inc.	= \$ 675

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

