

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

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In the Matter of the Arbitration Between:

D. Barrett Watkins and Linda Watkins, Claimants v. American Income Securities, Equity Trust Advisors, Inc., Mark C. Photoglou and Henry D. Davidson, Respondents

Case Number: 00-04105

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Jeffrey A. Blackie, Esq.  
Call & Jensen  
Newport Beach, California

For Respondents:

James K. Autrey, Esq.  
Nash & Edgerton  
Hermosa Beach, California

**CASE INFORMATION**

Statement of Claim filed: September 14, 2000

Claimants' Uniform Submission Agreement signed: October 3, 2000

Joint Statement of Answer filed by Respondents Equity Trust Advisors, Inc.,  
Mark C. Photoglou and Henry D. Davidson: December 13, 2000

Respondent Equity Trust Advisors, Inc.'s Uniform Submission Agreement signed:  
November 30, 2000

Respondent Mark C. Photoglou's Uniform Submission Agreement signed:  
November 30, 2000

Respondent Henry D. Davidson's Uniform Submission Agreement signed:  
November 30, 2000

### **CASE SUMMARY**

Claimants alleged unauthorized trading, unsuitability, negligence, breach of contract, breach of fiduciary duty, fraud, and violation of NASD, state, and federal securities rules and regulations.

Respondents Equity Trust Advisors, Inc., Mark C. Photoglou and Henry D. Davidson denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

Respondent American Income Securities did not file a Statement of Answer.

### **RELIEF REQUESTED**

Claimants requested unspecified compensatory damages in an amount sufficient to compensate Claimants for all losses, including but not limited to an amount sufficient to cover the loss in value to Claimants account, reimbursement of commissions, charges, interest and other expenses associated with the complained of transactions, punitive damages, costs and attorney's fees.

Respondents Equity Trust Advisors, Inc., Mark C. Photoglou and Henry D. Davidson requested dismissal of the Claimants' Statement of Claim in its entirety, costs and attorney's fees.

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

Respondent American Income Securities did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made on behalf of the Claimants, the undersigned Panel determined that Respondent American Income Securities was 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 Code.

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

- 1) Claimants' Statement of Claim is denied in its entirety and dismissed with prejudice.
- 2) The parties shall each bear their own respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 250.00

#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a claimant or respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firms American Income Securities and Equity Trust Advisors, Inc. are parties and the following fees are assessed to each:

Member Surcharge = \$ 1,200.00

Pre-Hearing Process Fee = \$ 600.00

Hearing Process Fee = \$ 2,000.00

**Total Member Fees = \$ 3,800.00**

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

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference or hearing session is any meeting between the parties and the Chair or the Panel. The following fees are assessed:

2 Pre-hearing conference sessions with a single arbitrator @ \$ 450/session = \$ 900.00

Pre-hearing conferences: July 2, 2001 1 session  
October 8, 2001 1 session

1 Pre-hearing conference session with the Panel @ \$1,000/session = \$ 1,000.00

Pre-hearing conference: May 11, 2001 1 session

8 Hearing sessions @ \$1,000/session = \$ 8,000.00

Hearings: November 5, 2001 2 sessions  
November 6, 2001 2 sessions  
November 7, 2001 2 sessions  
November 9, 2001 2 sessions

**Total Forum Fees = \$ 9,900.00**

1. The Panel assessed \$4,950.00 of the forum fees jointly and severally to Claimants D. Barrett Watkins and Linda Watkins.
2. The Panel assessed \$4,950.00 of the forum fees jointly and severally to Respondents American Income Securities, Equity Trust Advisors, Inc., Mark C. Photoglou and Henry D. Davidson.

### **Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimants requested 32 photocopies @ \$0.50: = \$ 16.00

### **Fee Summary**

1. Claimants, D. Barrett Watkins and Linda Watkins, are charged joint and severally with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 4,950.00
<u>Administrative Costs</u>	= \$ 16.00
Total Fees	= \$ 5,216.00
<u>Less payments</u>	= \$(1,250.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 3,966.00</b>

2. Respondent firm, American Income Securities, is charged with the following fees and costs:

Member Fees	= \$ 3,800.00
<u>Less payments</u>	= \$( 162.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 3,638.00</b>

3. Respondent firm, Equity Trust Advisors, is charged with the following fees and costs:

<u>Member Fees</u>	= \$ 3,800.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 3,800.00</b>

4. Respondents, American Income Securities, Equity Trust Advisors, Inc., Mark Photoglou and Henry Davidson, are charged jointly and severally with the following fees and costs:

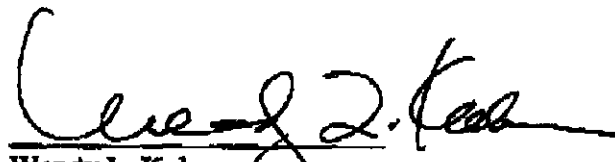
<u>Forum Fees</u>	= \$ 4,950.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 4,950.00</b>

All balances are payable to NASD Dispute Resolution, Inc. and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

<i>Wendy L. Kohn, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Lambert M. Javelera, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Mark A. Levy, JD</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Wendy L. Kohn  
Chair, Public Arbitrator

11-15-01  
Signature Date

\_\_\_\_\_  
Lambert M. Javelera, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Mark A. Levy  
Non-Public Arbitrator

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

11-15-01  
Date of Service

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Lambert M. Javelera, Esq.  
Mark A. Levy, JD

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

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Chair, Public Arbitrator

Signature Date



Lambert M. Javelera, Esq.  
Public Arbitrator

11/13/01  
Signature Date

Mark A. Levy  
Non-Public Arbitrator

Signature Date

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Public Arbitrator  
Non-Public Arbitrator

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