

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Name of the Claimants

Case Number: 00-04429

James A. and Rita Daugherty  
Goldie Alkire  
Edward E. Crabtree  
Glenn B. and Janet A. Crabtree  
Ronald Watson  
Robert L. Groves and Terri J. Groves  
Donald O. Sowers and Thelma J. Sowers

Name of the Respondents

Hearing Site: Pittsburgh, PA

Washington Square Securities, Inc.

---

**REPRESENTATION OF PARTIES**

Claimants, James A. and Rita Daugherty, Goldie Alkire, Edward E. Crabtree, Glenn B. and Janet A. Crabtree, Ronald Watson, Robert L. and Terry J. Groves, Donald and Thelma J. Sowers, hereinafter collectively referred to as "Claimants": Kalju Nekvasil, Esq. and Stephen Krosschel, Esq., Goodman & Nekvasil, P.A., Clearwater, FL.

Respondents, Washington Square Securities, Inc., hereinafter referred to as "Respondent": Frank A. Taylor, Esq., Briggs and Morgan, Minneapolis, MN.

**CASE INFORMATION**

Statement of Claim filed on: October 4, 2000

Amended Statement of Claim filed on: May 10, 2001

Claimants, James A. and Rita Daugherty, signed the Uniform Submission Agreement: September 16, 2000

Claimant, Goldie Alkire, signed an undated Uniform Submission Agreement

Claimant, Edward E. Crabtree, signed the Uniform Submission Agreement: April 14, 2001

Claimants, Glenn B. and Janet A. Crabtree, signed the Uniform Submission Agreement: August 16, 2000

Claimant, Ronald Watson, signed the Uniform Submission Agreement: October 14, 2000

Claimant, Robert L. Groves, signed an undated Uniform Submission Agreement

Claimant, Terri J. Groves, signed the Uniform Submission Agreement: May 23, 2001

Claimants, Donald O. and Thelma J. Sowers, signed the Uniform Submission Agreement: April 5, 2001

Statement of Answer filed by Respondent on: January 19, 2001

Representative of Respondent signed the Uniform Submission Agreement: December 11, 2000

Answer to Amended Statement of Claim filed by Respondent on: September 4, 2001

Motion to Sever filed by Respondent on: June 7, 2001

Motion to Amend Its Answer to Claimants' Amended Statement of Claim filed by Respondent on: November 9, 2001

Motion to Dismiss for Lack of Jurisdiction and Request for an Order Referring the Dispute to a Court of Competent Jurisdiction filed by Respondent on: March 7, 2002

Motion to Dismiss for Failure to Join an Indispensable Party filed by Respondent on: March 7, 2002

Motion to Strike Exhibits, Order Disclosure of Witnesses, Sequester Witnesses, and Permit Stenographic Reporter filed by Respondent on: April 30, 2002

Motion that Respondent Provide a List of Registered Representatives Who Engaged in "Selling Away" Activities filed by Claimants on: April 30, 2002

Motion to Dismiss for Failure to Comply with Panel's Discovery Order filed by Respondent on: May 2, 2002

### **CASE SUMMARY**

Claimants asserted the following causes of action in the Statement of Claim among others: violation of West Virginia Securities Act; violation of North Carolina Securities Act; violation of federal securities laws; breach of contract; fraud; breach of fiduciary duty; negligence and gross negligence. The causes of action relate to the sale and purchase of shares of First Call Telephone Co., Inc., ETS Payphones, Inc., U.S. Capital Funding, Inc., and Ferris Productions, Inc.

The above causes of action and related securities were reiterated in the Amended Statement of Claim. In addition, the Amended Statement of Claim specified that the causes of action also related to the purchase and sale of shares of Alpha Telecom, Inc. and 21st Century Pay Communications, Inc.

Unless specifically admitted in its Answer to the Statement of Claim and its Answer to the Amended Statement of Claim, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent acted in good faith; the registered representative's conduct involved transactions that were not normally supervised by Respondent; the registered representative was not acting with Respondent's apparent authority; failure to state a claim upon which relief can be granted; failure to plead fraud with requisite particularity; actual or constructive notice; and statutes of limitations or other limitations periods, provisions, doctrines, or time bars.

### **RELIEF REQUESTED**

Claimants requested:

- Compensatory Damages	\$ 667,526.28
- Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified

Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	
Benefit of Bargain Damages	unspecified
Lost Opportunity Costs	unspecified
Model Portfolio Damages	unspecified

Respondent requested that the Panel dismiss the Statement of Claim in its entirety and award Respondent its costs and expenses, including attorneys' fees.

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

Respondent's Motion to Sever was denied.

Respondent's Motion to Amend Its Answer to Claimant's Amended Statement of Claim was denied.

Respondent's Motion to Dismiss for Lack of Jurisdiction and Request for an Order Referring the Dispute to a Court of Competent Jurisdiction was denied.

Respondent's Motion to Dismiss for Failure to Join an Indispensable Party was denied.

Respondent's Motion to Strike Exhibits, Order Disclosure of Witnesses, Sequester Witnesses, and Permit Stenographic Reporter was denied.

Claimant's Motion that Respondent Provide a List of Registered Representatives Who Engaged in "Selling Away" Activities was denied.

Respondent's Motion to Dismiss for Failure to Comply with Panel's Discovery Order was denied.

Respondent's oral Motion for Summary Judgment was denied

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 is liable to Claimants, James A. and Rita Daugherty, and shall pay them - compensatory damages in the amount of \$ 131,600.00. No interest on this amount has been awarded;

2. Claimant Goldie Alkire's claims are denied in their entirety;
3. Respondent is liable to Claimant, Edward E. Crabtree, and shall pay him compensatory damages in the amount of \$ 10,620.00. No interest on this amount has been awarded;
4. Respondent is liable to Claimants, Glenn B. and Janet A. Crabtree, and shall pay them compensatory damages in the amount of \$ 88,400.00. No interest on this amount has been awarded;
5. Claimant Ronald Watson's claims are denied in their entirety;
6. Respondent is liable to Claimants, Robert L. and Terri J. Groves, and shall pay them compensatory damages in the amount of \$ 24,000.00. No interest on this amount has been awarded;
7. Respondent is liable to Claimants, Donald O. and Thelma J. Sowers, and shall pay them compensatory damages in the amount of \$ 75,000.00. No interest on this amount has been awarded;
8. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
9. 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 Dispute Resolution 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 persons at the time of the events giving rise to the dispute. Accordingly, Washington Square Securities, Inc. is a party.

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 3,500.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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 sessions with Panel @ \$ 1,200.00 = \$ 1,200.00

Pre-hearing conference: July 25, 2001 1 session

Eighteen (18) Hearing sessions @ \$ 1,200.00 = \$ 21,600.00

Hearing Dates:	May 6, 2002	2 sessions
	May 7, 2002	2 sessions
	May 8, 2002	2 sessions
	May 9, 2002	2 sessions
	May 10, 2002	2 sessions
	May 29, 2002	2 sessions
	May 30, 2002	3 sessions
	May 31, 2002	3 sessions

---

Total Forum Fees = \$ 22,800.00

1. The Panel has assessed \$ 11,400.00 of the forum fees to Claimants, jointly and severally.
2. The Panel has assessed \$ 11,400.00 of the forum fees to Respondent, Washington Square Securities, Inc.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 11,400.00

---

Total Fees = \$ 11,700.00

Less payments = \$ 1,425.00

---

Balance Due NASD Dispute Resolution = \$ 10,275.00

2. Respondent, Washington Square Securities, is solely liable for:

Member Fees = \$ 5,600.00

Forum Fees = \$ 11,400.00

---

Total Fees = \$ 17,000.00

Less payments = \$ 4,600.00

---

Balance Due NASD Dispute Resolution = \$ 12,400.00


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

ARBITRATION PANEL

Andrew L. Weil, Esq.	-	Public Arbitrator, Presiding Chairperson
Marc Winters	-	Public Arbitrator, Panelist
John H. Ewing, Jr.	-	Non-Public Arbitrator, Panelist

NASD Dispute Resolution  
Arbitration No. 00-04429  
Award Page 7

### Concurring Arbitrators' Signatures

  
Andrew L. Weil, Esq.  
Public Arbitrator, Presiding Chairperson

7-13-07  
Signature Date

**Marc Winters**  
Public Arbitrator, Panelist

**Signature Date**

**John H. Ewing, Jr.**  
Non-Public Arbitrator, Panelist

Signature Date

7/15/02  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 00-04429  
Award Page 7

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Andrew L. Weil, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Marc Winters  
Public Arbitrator, Panelist

7/12/02  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John H. Ewing, Jr.  
Non-Public Arbitrator, Panelist

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

7/15/02  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Andrew L. Weil, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Marc Winters  
Public Arbitrator, Panelist

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

John H. Ewing, Jr.  
John H. Ewing, Jr.  
Non-Public Arbitrator, Panelist

July 12, 2002  
Signature Date

7/15/02  
Date of Service (For NASD Dispute Resolution office use only)