

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Claimant

Raymond L. Weaver

v.

03-03768

Denver, Colorado

Respondent

Washington Square Securities, Inc.

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Nature of Dispute: Customer v. Member

**REPRESENTATION OF PARTIES**

Raymond L. Weaver ("Claimant") was represented by David E. Graven, Esq., and Jeffrey Pederson, Esq., of Burg Simpson Eldredge Hersh & Jardine, Englewood, Colorado and Tracy Pride Stoneman, Esq., of Tracy Pride Stoneman, P.C., Westcliffe, Colorado.

Washington Square Securities, Inc. ("WSSI"), hereinafter referred to as ("Respondent"), was represented by William D. Nelson, Esq., and Cleo J. Raunchway, Esq., of Rothgerber, Johnson & Lyons, LLP, Denver, Colorado.

**CASE INFORMATION**

The Statement of Claim was filed on or about May 23, 2003. Submission Agreement of Claimant was signed on or about April 19, 2003.

A Statement of Answer was filed by Respondent Washington Square Securities, Inc. on or about August 10, 2003. Submission Agreement of Respondent Washington Square Securities, Inc. was signed on or about June 30, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: misrepresentations, omissions, violation of state and federal securities laws, violation of the Colorado Consumer Protection Act, negligence, failure to supervise, breach of contract, and breach of fiduciary duty. The causes of action related to Claimant's allegation that Respondent gave him improper advice relating to his brokerage accounts and mismanaged his accounts. Claimant asserted that Respondent improperly invested him in unspecified Class B mutual funds, which according to Claimant, were too risky and unsuitable given his investment objectives.

Respondent denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted; Claimant's damages, if any, were caused by circumstances or persons over which WSSI had no control; Claimant's claims are barred by the doctrines of unclean hands, estoppel, and waiver; and Claimant's claims are barred by the applicable statute of limitations.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$150,000 in compensatory damages. In addition Claimant requested attorney's fees, interest, costs and any other relief that the Panel deemed just and equitable.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

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

1. Respondent, Washington Square Securities, Inc., is liable for and shall pay to Claimant, Raymond L. Weaver, the sum of One Hundred Twenty Thousand Dollars and No Cents (\$120,000.00) in compensatory damages;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, are denied with prejudice; and
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

### **FEES**

Pursuant to the Code, the following fees are assessed:

### Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 300

### 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. In this matter, the member firm is Washington Square Securities, Inc.

Member surcharge = \$ 1,700

Pre-hearing process fee = \$ 750

Hearing process fee = \$ 2,750

### Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125 = \$ 1,125

Pre-hearing conference: 12/16/2003 1 session

Five (5) Hearing sessions with Panel x \$ 1,125 = \$ 5,625

Hearing Dates: 05/19/2004 3 sessions  
05/20/2004 2 sessions

Total Forum Fees = \$ 6,750

The Arbitration Panel has assessed \$ 6,750 of the forum fees to Washington Square Securities, Inc.

### Fee Summary

Claimant, Raymond L. Weaver is liable for:

Initial Filing Fee = \$ 300

<u>Forum Fees</u>	= \$ 300
<u>Total Fees</u>	= \$ 300
<u>Less payments</u>	= \$ 1,425
Balance Refunded By NASD Dispute Resolution	= \$ 1,125

Respondent, Washington Square Securities, Inc., is liable for:

Member Fees	= \$ 5,200
<u>Forum Fees</u>	= \$ 6,750
<u>Total Fees</u>	= \$ 11,950
<u>Less payments</u>	= \$ 6,750
Balance Due NASD Dispute Resolution	= \$ 6,750

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

**ARBITRATION PANEL**

Arthur E. Otten, Jr., Esq. - Public Arbitrator, Presiding Chair  
Mari C. Bush, Esq. - Public Arbitrator  
James P. Beck, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

\_\_\_\_\_  
Arthur E. Otten, Jr., Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

\_\_\_\_\_  
Mari C. Bush, Esq.  
Public Arbitrator

\_\_\_\_\_  
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James P. Beck, Esq.  
Non-Public Arbitrator

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Signature Date

6/2/04  
Date of Service (NASD use only)

NASD Dispute Resolution  
Arbitration No. 03-03768  
Award Page 4 of 4

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Arthur E. Otten, Jr.  
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Public Arbitrator, Presiding Chair

5/27/04  
Signature Date

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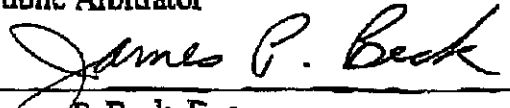
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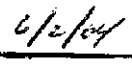
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