

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING  
Whether there has been a violation  
of the Securities Act of Washington by:

SDO - 76 - 02

ALPHA TELCOM, INC.; AMERICAN  
TELECOMMUNICATIONS COMPANY,  
INC.; KELLEY W. ABBOTT; WILFRID  
ALVAREZ; JACK CHANDLER; DANIEL  
CURTIN; THOMAS DURSO; ROY GRADY;  
HANS LORENTZEN; FAY L. MOYER;  
GLEN OTTMAR; DIRK PETERSEN;  
FREDERICK WEATHERBEE; their agents  
and employees,

ENTRY OF FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND FINAL  
ORDER TO CEASE AND DESIST AND  
IMPOSING FINES AS TO THOMAS DURSO

Case No. 99-07-0220

Respondents.

THE STATE OF WASHINGTON TO:

Thomas Durso

**BACKGROUND**

On January 29, 2002, the Securities Administrator of the State of Washington issued Statement of Charges and Notice of Intention to Enter Order to Cease and Desist, Notice of Intent to Suspend or Revoke Securities Salesperson Registration, and Notice of Intent to Impose Fines and Order Affirmative Relief SDO-09-02, hereinafter referred to as the "Statement of Charges", against Respondents Alpha Telcom, Inc., American Telecommunications Company, Inc., Kelley W. Abbott, Wilfrid Alvarez, Jack Chandler, Daniel

ENTRY OF FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND FINAL ORDER TO  
CEASE AND DESIST AND IMPOSING FINES AS  
TO THOMAS DURSO

1

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Securities Division  
PO Box 9033  
Olympia, WA 98507-9033  
360-902-8760

1  
2 Curtin, Thomas Durso, Roy Grady, Hans Lorentzen, Fay L. Moyer, Glen Ottmar, Dirk Petersen, and  
3 Frederick Weatherbee.

4 Alpha Telcom (“Alpha”) and American Telecommunications Company, Inc. (“ATC”) failed to  
5 request hearings in the matter. On March 13, 2002, the Securities Division entered a Final Order to Cease  
6 and Desist against Respondents Alpha and ATC. The Securities Division ordered Alpha and ATC to cease  
7 and desist from violations of the registration and anti-fraud sections of the Securities Act of Washington. In  
8 separate proceedings brought by the Securities and Exchange Commission, the United States District Court  
9 Judge for the District of Oregon entered final judgments against ATC on November 5, 2001 and Alpha on  
10 February 8, 2002. The final judgments permanently enjoin Alpha and ATC from violating Sections 5(a),  
11 5(c) and 17(a) of the Securities Act of 1933, as well as Section 10(b) of the Securities and Exchange Act of  
12 1934 and Rule 10b-5 thereunder. The final judgments also ordered Alpha and ATC to pay disgorgement to  
13 investors.  
14

15 On June 3, 2002, the Securities Division entered Consent Order SDO-38-02 as to Roy Grady. In  
16 addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
17 Securities Act, Mr. Grady’s securities salesperson license was suspended for a period of thirty days. Mr.  
18 Grady also reimbursed the Securities Division \$10,000 for its investigative costs, and is immediately subject  
19 to a \$10,000 fine in the event the Consent Order is violated.

20 On June 3, 2002, the Securities Division entered Consent Order SDO-47-02 as to Fay L. Moyer. In  
21 addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
22 Securities Act, Mr. Moyer is barred from applying for a securities salesperson or investment adviser  
23

1  
2 representative license for a period of five years. Mr. Moyer also reimbursed the Securities Division \$3,000  
3 for its investigative costs, and is subject to a \$55,000 fine in the event the Consent Order is violated.

4 On June 3, 2002, the Securities Division entered Consent Order SDO-48-02 as to Jack Chandler. In  
5 addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
6 Securities Act, Mr. Chandler is barred from applying for a securities salesperson or investment adviser  
7 representative license for a period of five years. Mr. Chandler also reimbursed the Securities Division  
8 \$7,500 for its investigative costs, and is subject to a \$50,000 fine in the event the Consent Order is violated.

9 On June 3, 2002, the Securities Division entered Consent Order SDO-50-02 as to Wilfrid Alvarez.  
10 In addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
11 Securities Act, Mr. Alvarez's securities salesperson license was suspended for a period of thirty days. Mr.  
12 Alvarez also reimbursed the Securities Division \$750 for its investigative costs, and is subject to a \$10,000  
13 fine in the event the Consent Order is violated.

14  
15 On June 12, 2002, the Securities Division entered Consent Order SDO-51-02 as to Dirk Petersen. In  
16 addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
17 Securities Act, Mr. Petersen's securities salesperson license was suspended for a period of thirty days. Mr.  
18 Petersen also reimbursed the Securities Division \$3,000 for its investigative costs, and is subject to a  
19 \$20,000 fine in the event the Consent Order is violated.

20 On June 17, 2002, the Securities Division entered Consent Order SDO-54-02 as to Frederick  
21 Weatherbee. In addition to agreeing to cease and desist from violations of the registration and anti-fraud  
22 provisions of the Securities Act, Mr. Weatherbee is barred from applying for a securities salesperson or

1 investment adviser representative license for a period of five years. Mr. Weatherbee also reimbursed the  
2 Securities Division \$5,000 for its investigative costs, and is subject to a \$40,000 fine in the event the  
3 Consent Order is violated.  
4

5 On July 1, 2002, the Securities Division entered Consent Order SDO-59-02 as to Hans Lorentzen. In  
6 addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
7 Securities Act, Mr. Lorentzen is barred from applying for a securities salesperson or investment adviser  
8 representative license for a period of five years. Mr. Lorentzen reimbursed the Securities Division \$750 for  
9 its investigative costs, and is subject to a \$20,000 fine in the event the Consent Order is violated.  
10

11 On July 1, 2002, the Securities Division entered Consent Order SDO-57-02 as to Daniel Curtin. In  
12 addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
13 Securities Act, Mr. Curtin's securities salesperson license was suspended for a period of sixty days. Mr.  
14 Curtin reimbursed the Securities Division \$2,000 for its investigative costs, and is subject to a \$15,000 fine  
15 in the event the Consent Order is violated.

16 On July 22, 2002, the Securities Division entered Consent Order SDO-63-02 as to Glen Ottmar. In  
17 addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
18 Securities Act, Mr. Ottmar is barred from applying for a securities salesperson or investment adviser  
19 representative license for a period of seven years. Mr. Ottmar reimbursed the Securities Division \$3000 for  
20 its investigative costs, and is subject to a \$65,000 fine in the event the Consent Order is violated.

21 On August 1, 2002, the Securities Division entered Consent Order SDO-72-02 as to Kelley Abbott.  
22 In addition to agreeing to cease and desist from violations of the registration and anti-fraud provisions of the  
23

1  
2 Securities Act, Mr. Abbott barred from applying for a securities salesperson or investment adviser  
3 representative license for a period of five years. Mr. Abbott reimbursed the Securities Division \$750 for its  
4 investigative costs, and is subject to a \$5,000 fine in the event the Consent Order is violated.

5 On March 21, 2002, the Statement of Charges, together with a Notice of Opportunity to Defend and  
6 Opportunity for Hearing (hereinafter referred to as "Notice of Opportunity for Hearing") and an Application  
7 for Adjudicative Hearing (hereinafter referred to as "Application for Hearing"), were personally served on  
8 Thomas Durso. An affidavit of service is on file with the Division. The Notice of Opportunity for Hearing  
9 advised Thomas Durso that he had twenty days from the date he received the notice to file a written  
10 application for an administrative hearing on the Statement of Charges. The Order further advised that if  
11 any Respondent did not request a hearing, as to that Respondent, the Securities Administrator intended to  
12 adopt the Tentative Findings of Fact and Conclusions of Law set forth in the Statement of Charges as  
13 final and impose the fines sought.  
14

15 Thomas Durso failed to request an administrative hearing within twenty days of its receipt of the  
16 Statement of Charges and Notice of Opportunity for Hearing, either on the Application for Hearing provided  
17 or otherwise.

18 The Securities Administrator therefore adopts as final the findings of fact and conclusions of law  
19 as set forth in the Statement of Charges as to Thomas Durso.

20 The Securities Administrator makes the following findings of fact and conclusions of law:  
21  
22

23 ENTRY OF FINDINGS OF FACT AND  
24 CONCLUSIONS OF LAW AND FINAL ORDER TO  
25 CEASE AND DESIST AND IMPOSING FINES AS  
26 TO THOMAS DURSO  
27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**FINDINGS OF FACT**

**I. Respondents**

1. **ALPHA TELCOM** (“Alpha”) is an Oregon corporation with a last known business address of 2751 Highland Ave., Grants Pass, Oregon.

2. **AMERICAN TELECOMMUNICATIONS COMPANY, INC.** (“ATC”) is a Nevada corporation with a last known business address of 942 S.W. 6<sup>th</sup> Street #G, Grants Pass, Oregon.

3. **KELLEY W. ABBOTT** (“Abbott”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least one person during the investment offering, as described below in Section II. Abbott’s license to sell insurance was revoked by the Washington state Office of the Insurance Commissioner in September of 1999. Abbott resides in Spokane, Washington.

4. **WILRID ALVAREZ** (“Alvarez”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least one person during the investment offering, as described below in Section II. Alvarez is a Washington state licensed insurance agent and resides in Port Orchard, Washington.

5. **JACK CHANDLER** (“Chandler”), while acting as an agent for Alpha and ATC, offered and sold public telephones and telephone service agreements to at least ten persons during the investment offering, as described below in Section II. Chandler is a Washington state licensed insurance agent and resides in Edmonds, Washington.

1  
2 6. **DANIEL CURTIN** (“Curtin”), while acting as an agent for Alpha and ATC, offered and  
3 sold public telephones and telephone service agreements to at least three persons during the investment  
4 offering, as described below in Section II. Curtin is currently licensed as a securities salesperson in the  
5 state of Washington. Curtin is also a Washington state licensed insurance agent and resides in Olympia,  
6 Washington.

7 7. **THOMAS DURSO** (“Durso”), while acting as an agent for Alpha and ATC, offered and  
8 sold public telephones and telephone service agreements to at least eleven persons during the investment  
9 offering, as described below in Section II. Durso resides in Bellevue, Washington.

10 8. **ROY GRADY** (“Grady”), while acting as an agent for Alpha and ATC, offered and sold  
11 public telephones and telephone service agreements to at least two persons during the investment  
12 offering, as described below in Section II. Grady is currently licensed as a securities salesperson in the  
13 state of Washington. Grady is also a Washington state licensed insurance agent and resides in  
14 Bellingham, Washington.

15 9. **HANS LORENTZEN** (“Lorentzen”), while acting as an agent for Alpha and ATC, offered  
16 and sold public telephones and telephone service agreements to at least four persons during the  
17 investment offering, as described below in Section II. Lorentzen is a Washington state licensed  
18 insurance agent and resides in Bellingham, Washington.

19 10. **FAY L. MOYER** (“Moyer”), while acting as an agent for Alpha and ATC, offered and  
20 sold public telephones and telephone service agreements to at least eleven persons during the investment  
21 offering, as described below in Section II.

1 offering, as described below in Section II. Moyer is a Washington state licensed insurance agent and  
2 resides in Omak, Washington.

3  
4 11. **GLEN OTTMAR** (“Ottmar”), while acting as an agent for Alpha and ATC, offered and  
5 sold public telephones and telephone service agreements to at least thirteen persons during the  
6 investment offering, as described below in Section II. Ottmar is a Washington state licensed insurance  
7 agent and resides in Bellevue, Washington.

8 12. **DIRK PETERSEN** (“Petersen”), while acting as an agent for Alpha and ATC, offered and  
9 sold public telephones and telephone service agreements to at least four persons during the investment  
10 offering, as described below in Section II. Petersen is currently licensed as a securities salesperson in the  
11 state of Washington. Petersen is also a Washington state licensed insurance agent and resides in  
12 Bellevue, Washington.

13  
14 13. **FREDERICK WEATHERBEE** (“Weatherbee”), while acting as an agent for Alpha and  
15 ATC, offered and sold public telephones and telephone service agreements to at least eight persons  
16 during the investment offering, as described below in Section II. Weatherbee is a Washington state  
17 licensed insurance agent and resides in Spokane, Washington.

18 **II. Nature of the Offering**

19 **A. Prior Litigation History**

20  
21 14. Alpha and ATC have been the subject of several actions brought by securities regulators  
22 throughout the country, including the Pennsylvania Securities Commission, the North Carolina Securities



1  
2 Division, the Illinois Securities Department, the South Carolina Securities Department, the Wisconsin  
3 Department of Financial Institutions, the Rhode Island Department of Business Regulations, the Florida  
4 Department of Banking and Finance, the California Department of Corporations, the Ohio Department of  
5 Commerce, the Missouri Secretary of State, and the Arkansas Securities Department. None of these  
6 actions were disclosed to Washington investors.

7 15. The United States District Court for the District of Oregon, at the request of the United  
8 States Securities and Exchange Commission, issued a preliminary injunction on September 6, 2001  
9 against Alpha Telcom, Inc., American Telecommunications Company, Inc., and various other persons  
10 restraining those defendants from committing securities fraud in violation of the Securities Act of 1933  
11 and the Securities Exchange Act of 1934. The preliminary injunction also continued an asset freeze  
12 contained in the temporary restraining order issued previously by the court on August 27, 2001.  
13

14 **B. Summary of Offering**

15 16. From at least December of 1998 through at least May of 2001, Respondents acting in  
16 concert, on behalf of one another, and/or acting through their sales agents, offered and sold public  
17 telephones and telephone service agreements to at least 100 Washington residents.

18 17. Abbott, Alvarez, Chandler, Curtin, Durso, Grady, Lorentzen, Moyer, Ottmar, Petersen, and  
19 Weatherbee entered into agreements with Alpha and ATC, whereby each agreed to sell public telephones  
20 and telephone service agreements on behalf of Alpha and ATC. Alpha and ATC agreed to compensate  
21 each agent on a commission basis based on the number of telephones sold by the agent.  
22

1  
2 18. The public telephones and telephone service agreements offered to Washington residents  
3 were sold at a cost of \$4,000 to \$5,000 per telephone. Under the terms of the telephone service  
4 agreement, Alpha undertook to perform certain duties on behalf of the investor, including but not limited  
5 to collecting revenue from the phones, as well as servicing, repairing, and administering the phones. The  
6 agreement provides that an investor receives 30% of the adjusted gross revenue generated by the phones,  
7 or the monthly base amount, whichever is greater. The monthly base amount is \$46.67 per \$4,000 phone  
8 purchased, and \$58.34 per \$5,000 phone purchased. These monthly base amounts equate to a 14%  
9 annual return.

10 19. In connection with the offer and sale of public telephones and telephone service  
11 agreements, some of the investors were provided promotional materials that described the payphone  
12 investments as providing higher yields than certificates of deposit. The promotional materials state that  
13 “payphones are not as safe as CD’s, but are a safe business.” Agents touted the typical return on  
14 investment as 14% annually.

15 20. At least 100 Washington residents invested a total of at least \$3,922,000 in public  
16 telephones and telephone service agreements through Alpha and ATC.

17 21. In connection with the offer and sale of public telephones and telephone service  
18 agreements, Respondents failed to provide material information regarding Alpha and ATC during the  
19 investment offering, including, but not limited to: (1) information about the use of investor proceeds,  
20 such as the costs to purchase public telephones and the amounts paid to Alpha, ATC, agents, and others;  
21  
22

1  
2 (2) the risks of the investment (3) the financial condition and financial statements of Alpha and ATC; and  
3 (4) the basis for the representations made to investors of a 14% annual investment return.

4 **III. Registration Status**

5 22. Alpha, ATC, Abbott, Alvarez, Chandler, Curtin, Durso, Grady, Lorentzen, Moyer, Ottmar,  
6 Petersen, and Weatherbee are not currently registered to offer or sell its securities in the state of  
7 Washington and have not previously been so registered.

8 23. Alpha, ATC, Abbott, Alvarez, Chandler, Durso, Lorentzen, Moyer, Ottmar and Weatherbee  
9 are not currently registered as securities salespersons or broker-dealers in the state of Washington.  
10 Alvarez was registered in the state of Washington as a securities salesperson from September 1998 to  
11 August 2001. Lorentzen was registered in the state of Washington as a securities salesperson from  
12 February 1994 to December 1998. Ottmar was registered in the state of Washington as a securities  
13 salesperson from May 1983 to June 1993.

14 24. Curtin (CRD #1471333) is currently registered as a securities salesperson in the state of  
15 Washington with Allstate Financial Services, LLC.

16 25. Grady (CRD #1697841) is currently registered as a securities salesperson in the state of  
17 Washington with Allstate Financial Services, LLC.

18 26. Petersen (CRD #4242106) is currently registered as a securities salesperson in the state of  
19 Washington with Prime Capital Services, LLC.

1 Based upon the above Findings of Fact, the following Conclusions of Law are made as to Thomas

2  
3 Durso:

4 **CONCLUSIONS OF LAW**

5 **I. Securities**

6 The offer and/or sale of public telephones and telephone service agreements described above  
7 constitutes the offer and/or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: an  
8 investment contract; or risk capital.  
9

10 **II. Violation of RCW 21.20.010**

11 The offer and/or sale of said securities was made in violation of RCW 21.20.010 because  
12 Respondent made untrue statements of material fact and/or omitted to state material facts necessary in  
13 order to make the statements made, in light of the circumstances under which they were made, not  
14 misleading.  
15

16 **III. Violation of RCW 21.20.140**

17 The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration  
18 for such offer and/or sale is on file with the Securities Administrator of the state of Washington.

19 **IV. Violation of RCW 21.20.040**

20 Respondent Durso has violated RCW 21.20.040 by offering said securities while not being  
21 registered as a broker-dealer or securities salesperson in the state of Washington.  
22

1  
2 **FINAL ORDER**

3 Based upon the foregoing, NOW, THEREFORE, IT IS HEREBY ORDERED that Thomas Durso  
4 cease and desist from violating RCW 21.20.010, the anti-fraud section of the Securities Act.

5 It is further ORDERED that Thomas Durso cease and desist from violating RCW 21.20.140 by  
6 offering and/or selling unregistered securities.

7 It is further ORDERED that Thomas Durso cease and desist from violating RCW 21.20.040 by  
8 acting as a securities broker-dealer or securities salesperson without being so registered.

9 It is further ORDERED that, pursuant to RCW 21.20.395, Thomas Durso shall pay a fine in the  
10 amount of \$55,000. Such payment shall be: (a) made by United States postal money order, certified check,  
11 bank cashier's check or bank money order; (b) made payable to the Washington State Treasurer; (c)  
12 delivered by certified mail to Deborah R. Bortner, Securities Administrator, Department of Financial  
13 Institutions, PO Box 9033, Olympia, Washington 98507-9033; and (d) submitted with a cover letter that  
14 identifies Thomas Durso as a Respondent under these proceedings, and the Order and Case number of these  
15 proceedings.  
16

17 **AUTHORITY AND PROCEDURE**

18 This Final Order is entered pursuant to the provisions of RCW 21.20.390 and RCW 21.20.395,  
19 and is subject to the provisions of Chapter 21.20 RCW and Chapter 34.05 RCW. Pursuant to RCW  
20 21.20.395, a certified copy of this order may be filed in Superior Court. If so filed, the clerk shall treat  
21 the order in the same manner as a Superior Court judgment as to the fine, and the fine may be recorded,  
22 enforced, or satisfied in like manner.

23 ENTRY OF FINDINGS OF FACT AND  
24 CONCLUSIONS OF LAW AND FINAL ORDER TO  
25 CEASE AND DESIST AND IMPOSING FINES AS  
26 TO THOMAS DURSO

13

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Securities Division  
PO Box 9033  
Olympia, WA 98507-9033  
360-902-8760

27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

DATED this 14th day of August, 2002.



DEBORAH R. BORTNER  
Securities Administrator

Approved by:

Presented by:

\_\_\_\_\_  
Michael E. Stevenson  
Chief of Enforcement

\_\_\_\_\_  
Chad Standifer  
Staff Attorney

ENTRY OF FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND FINAL ORDER TO  
CEASE AND DESIST AND IMPOSING FINES AS  
TO THOMAS DURSO