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PUBLIC UTILITIES COMMISSION OF OHIO

ALBERT A. NADER,

Plaintiff

No. 99 475 EL-CSS

v.

COLONY SQUARE PARTNERS, LTD.

Defendant

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**COLONY SQUARE PARTNERS, LTD.'S ANSWER  
TO ALBERT A. NADER'S COMPLAINT**

For its Answer to Plaintiff Albert A. Nader's Complaint, Defendant Colony Square Mall  
(hereinafter "Colony Square") hereby admits, avers and denies as follows:

**FIRST DEFENSE**

1. Colony Square denies that it overcharged Nader from February 1, 1989 to February 1, 1995.
2. Colony Square denies all remaining allegations contained in Nader's Complaint.

**SECOND DEFENSE**

3. The Public Utilities Commission lacks jurisdiction because Colony Square is not a public utility.

**THIRD DEFENSE**

4. The Public Utilities Commission lacks subject matter jurisdiction.

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accurate and complete reproduction of a case file  
document delivered in the regular course of business.  
Technician Joan Schaeffer Date Processed 5-18-99

**FOURTH DEFENSE**

5. The doctrine of *res judicata* bars Nader's Complaint because this matter has previously been litigated in the case of *Colony Square Limited Partnership v. Albert A. Nader, et al.*, Muskingum County Court of Common Pleas Case No. CH 91-160 and Fifth Appellate District Case No. CT 97-0021.

**FIFTH DEFENSE**

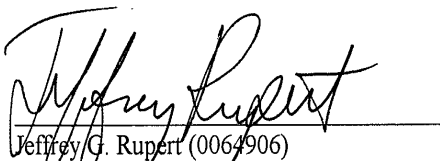
6. Nader's Complaint is barred by the doctrines of laches and waiver because the Complaint is not timely.

**SIXTH DEFENSE**

7. Nader's Complaint fails, in whole or in part, to state a claim upon which relief may be granted.

WHEREFORE, Defendant Colony Square Partners, Ltd. moves that Nader's Complaint be dismissed with prejudice and that it be awarded its attorneys' fees, costs and other relief that the Public Utilities Commission of Ohio deems just and equitable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey G. Rupert", is written over a horizontal line.

Jeffrey G. Rupert (0064906)

FROST & JACOBS LLP

One Columbus – Suite 1000

10 West Broad Street

Columbus, OH 43215-3467

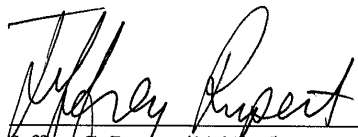
(614) 464-1211

Attorney for Defendant Colony Square

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served, this 17<sup>th</sup> day of May, 1999, by regular U.S. mail to:

Albert A. Nader  
3276 Hilltop Road  
Zanesville, Ohio 43701

  
\_\_\_\_\_  
Jeffrey G. Rupert (0064906)