

MSRB
MUNICIPAL SECURITIES RULEMAKING BOARD

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AUG 3 1990

M.S.R.B.

In the Matter of the Arbitration between :
:
:
Claimant, :
:
v. :
:
HALPERT AND COMPANY, INC., :
:
Respondent. :

AWARD

MS 89-105
SC9-039

The Undersigned, pursuant to section 31 of MSRB rule G-35, hereby states as follows:

CASE SUMMARY

Claimant alleges that Respondent contacted him in December, 1988, to sell \$25,000 Puerto Rico Highway Bonds and to purchase \$25,000 New York State Energy Bonds. Claimant alleges that Respondent told him that it would cost approximately \$1,000 to complete the trades and he requested that Respondent delay settlement until the first week in January, 1989, when he would have the necessary funds. Claimant alleges that on two occasions prior to settlement Respondent told him that when the New York State Energy Bonds were delivered they would have the 1/1/89 coupons attached or, if they didn't, Respondent would send him a check for the interest payment. Claimant contends that Respondent has refused to send him either the 1/1/89 coupons or a check for the interest.

Respondent alleges that the trades occurred on 12/9/88 and would have settled on 12/16/88, however, a few days after trade date, Claimant requested that settlement be delayed until after 1/1/89. Respondent alleges that it already had sold the Puerto Rico Highway Bonds to another customer for settlement on 12/20/88, but it delayed settlement on the New York State Energy Bonds to 1/3/89, pursuant to Claimant's request. Respondent contends that Claimant is not entitled to the 1/1/89 interest payment on the New York State Energy Bonds because he did not own them until 1/3/89. In addition, Respondent argues that it paid Claimant accrued interest from 7/1/88 to 12/19/88 and 1/1/89 to 1/3/89, but not from 12/20/88 to 1/1/89 since the customer who bought the Puerto Rico Highway Bonds was accruing interest on these bonds during that time. Respondent contends that Claimant is not entitled to this interest.

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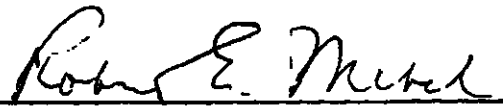
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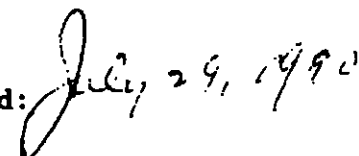
Claimant alleges a loss of six months interest or \$1,406.25. Respondent contends that Claimant is not entitled to this interest. Respondent also counterclaims for \$750 for its time spent on this matter. In response, Claimant amends his claim for an additional \$1,500 for his time spent on this matter.

AWARD

The undersigned arbitrator reviewed the controversy between the parties set forth in submissions to the arbitrator signed by Claimant on December 1, 1989 (filed with the MSRB on December 15, 1989) and by Respondent on January 29, 1990. The undersigned, having considered the matter solely upon the pleadings and evidence submitted by the parties, pursuant to section 34 of MSRB rule G-35, has determined, in full and final resolution of the issues submitted for determination, as follows:

There is a sharp question of fact in this matter. Claimant states he was told by a salesperson of Respondent that he was entitled to interest on the New York State Energy Bonds prior to settlement of his purchase. The written confirmations do not show this. The Respondent denies the additional interest was promised. It would not be in accordance with normal practice that interest prior to January 3, 1989, the settlement date, would be payable to the Claimant. Claimant has not sustained by sufficient proof that he is entitled to the 1/1/89 additional interest and his claim is denied. The arbitrator also finds that Claimant is not entitled to time spent on this matter of \$1,500, nor is Respondent entitled to its counterclaim of \$750 for its time. In addition, Claimant's \$25 arbitration deposit will be retained by the MSRB as forum fees.


Robert E. Mebel

Dated: 

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STATE OF *NEW YORK*
COUNTY OF *KINGS*

SS.:

On this *29* day of *July*, 19 *90*, before me personally
appeared _____ to me known and known to me to be the
individual described in and who executed the foregoing instrument
and he duly acknowledged to me that he executed the same.

Alexander Ginsberg

ALEXANDER GINSBERG
ARY PUBLIC, STATE OF NEW YORK
No. 41-652550
Qualified in Queens County
Term Expires March 20, 1992

Aug 31, 1990