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MSRB

In the Matter of the Arbitration Between

v.

Claimant,

BARNETT BROKERAGE SERVICE, INC. a/k/a BARNETT
BANK BROKERAGE SERVICE,

Respondent.

AWARD
MS 89-40

The UNDERSIGNED, pursuant to MSRB Rule G-35, Section 31, and to the parties agreement at the hearing, pursuant to Section 14, to proceed with two arbitrators, hereby state as follows:

CASE SUMMARY

Claimant alleged that Respondent breached its contractual obligation to Claimant by failing to deliver to him, at the time of purchase of certain municipal securities, an initial prospectus, financial statement or bankruptcy notices regarding the securities pursuant to the agreement in Claimant's IRA Plan. Claimant argued that as a result of Respondent's breach of contract and breach of fiduciary duty, Claimant suffered a preventable loss. Claimant further alleged that Respondent failed to notify him that the securities had gone into Chapter 11 bankruptcy. Claimant argued that Respondent was in a superior position and that Respondent expressly intended for there to be a fiduciary relationship because it is in the business of holding assets that belong to other people.

Respondent argued that as a discount broker it did not owe a fiduciary duty to Claimant, that Claimant voluntarily selected the securities purchased and Respondent had no duty to advise him, that Claimant waived any obligation of Respondent to supply him with documents available at the time of purchase by failing to state his objections in a timely manner, that information regarding the default on the bonds was not publicly available until it was too late for Claimant to protect his investment, that Respondent forwarded all information it received from the issuer of the securities directly to Claimant upon receipt, and that Claimant's claim is barred by the doctrine of laches and the applicable statute of limitations.

RELIEF REQUESTED

Claimant requested that Respondent be ordered to pay to Claimant \$34,784 as compensatory damages, to pay to Claimant all costs and any other relief deemed just and proper. The parties stipulated that attorneys' fees should not be awarded.

AWARD

On January 26, 1990, in Orlando, Florida, the undersigned arbitrators heard the controversy between the parties set forth in submissions to the arbitrators signed by Claimant on March 28, 1989 (and filed with the MSRB on April 12, 1989) and by Respondent on June 7, 1989. The arbitrators, having considered the pleadings, the testimony and the evidence presented at the hearing, have determined in full and final resolution of the issues submitted for determination that:

Respondent shall pay to Claimant \$5,000.00;

Each party shall bear its own costs; and

The MSRB shall refund to Claimant his \$400 arbitration deposit and Respondent shall pay to the MSRB \$400 as forum fees.


A. Grant Bohl

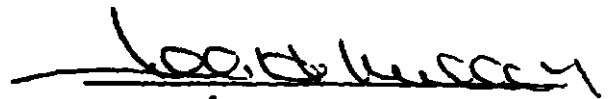

Linda Rickertsen

Dated: 2/2/90

STATE OF Florida
COUNTY OF SARASOTA

SS.:

On this 2nd day of FEBRUARY, 1990, 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.

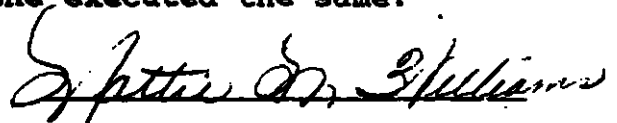


Notary Public, State of Florida
My Commission Expires July 16, 1990
Banded Three Year Term - Insurance ...

STATE OF GEORGIA
COUNTY OF FULTON

SS.:

On this 12th day of February, 1990, before me personally appeared _____ to me known and known to me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.



Notary Public, Clayton County, Georgia
My Commission Expires Sept. 7, 1992