

**MSRB**  
MUNICIPAL SECURITIES RULEMAKING BOARD

In the Matter of the Arbitration between

AWARD

Claimants,

v.

MS 89-44

DOMINICK & DOMINICK, INCORPORATED;  
DOMINICK INVESTOR SERVICES CORPORATION and  
LAWRENCE K. MCCARTY,

Respondents.

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

**CASE SUMMARY**

Claimants allege that in or around November of 1987 Claimant began discussing with Respondent Lawrence K. McCarty, an authorized agent and employee of either Respondent Dominick & Dominick, Incorporated or Respondent Dominick Investor Services Corporation or both, the possibility of consolidating Claimants' investment holdings. Claimants allege that Mr. McCarty had endorse the back of certain tax free bonds owned by Claimants and Mr. McCarty subsequently sold these bonds and purchased an investment trust without knowledge or consent and while was out-of-state. Claimants also allege that Mr. McCarty signed 's daughters' names on certain authorization forms on which their respective names appeared in order to sell the bonds.

Respondents argue, among other things, that in November of 1987 determined to consolidate Claimants' holdings and accepted a recommendation from Mr. McCarty that he sell certain bonds which he and his daughters owned and purchase an investment trust. Respondents argue that Mr. McCarty instructed to endorse the back of the bonds he wanted to sell and have certain authorization forms signed by his daughters to enable Respondents to complete the transactions. Respondents argue that subsequently failed to timely furnish Mr. McCarty with the signed authorization forms and that Mr. McCarty signed Claimants' signatures on said forms after had given him verbal authorization to do so. Respondents contend that authorized the trades, that Mr. McCarty acted in good faith, and that Claimants have not suffered any material damages as a result of these transactions.

## RELIEF REQUESTED

Claimants request, in the discretion of the arbitrators, rescission of the transactions or that they be permitted to retain the investment trust, in addition to which they request that they be awarded lost interest of approximately \$2,925, and their expenses incurred in connection with this proceeding. Respondents request that the claims of the Claimants be dismissed.

## AWARD

On June 8, 1990, in West Palm Beach, Florida, the undersigned arbitrators heard the controversy between the parties set forth in submissions to the arbitrators signed by Claimant on October 11, 1988; by Claimants \_\_\_\_\_ and \_\_\_\_\_ on December 23, 1988; by Claimant \_\_\_\_\_ on January 3, 1989; by Claimants \_\_\_\_\_ and \_\_\_\_\_ on January 13, 1989 (filed with the MSRB on May 4, 1989); by Respondents Dominick & Dominick, Incorporated and Dominick Investor Services Corporation on May 9, 1989; and, by Respondent Lawrence K. McCarty on July 17, 1989. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined, in full and final resolution of the issues submitted for determination, that:

1. Claimants may retain the investment trust.
2. No interest shall be awarded.
3. Respondents shall pay to Claimants \$4,200, as compensation for their expenses incurred in connection with this proceeding.
4. The panel directs the MSRB to refer Respondent Lawrence K. McCarty to the appropriate regulatory organization for investigation into his activities regarding Claimants' account, especially his signing of Claimants' signatures on certain authorization forms.
5. Claimants' \$500 arbitration deposit shall be retained by the MSRB as forum fees, pursuant to section 2 of MSRB rule A-16.
6. Claimants' two \$100 adjournment fees shall be retained by the MSRB, pursuant to section 20(b) of MSRB rule G-35.

---

Public Arbitrator

---

Public Arbitrator

\_\_\_\_\_  
Industry Arbitrator

Dated: *09 July 1990*

\* \* \*

STATE OF ~~FLORIDA~~  
COUNTY OF PALM BEACH

ss.:

On this 5th day of July, 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.

*Ray Greenberg*

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. JUNE 22, 1993  
BONDED THRU GENERAL INS. UND.

STATE OF *Florida*  
COUNTY OF *Palm Beach*

ss.:

On this 25 day of *June*, 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.

*Lucia Ann Sutton*

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. JUNE 1, 1994  
BONDED THRU GENERAL INS. UND.

STATE OF *Florida*  
COUNTY OF *Seminole*

SS.:

On this *9th* 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.

*Jeannita A. Bussard*

Notary Public, State of Florida at Large  
My Commission Expires August 30, 1991  
Bonded thru Huckleberry & Associates

Paul Lilling  
Paul Lilling

Dated: 09 July 1990

\* \* \*

STATE OF FLORIDA  
COUNTY OF PALM BEACH

ss.:

On this 5th day of July, 1990, before me personally appeared James Nemec 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.

Ray Greenberg  
NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. JUNE 22, 1993  
BONDED THRU GENERAL INS. UND.

STATE OF ~~Florida~~  
COUNTY OF ~~Palm Beach~~

ss.:

On this 25 day of June, 1990, before me personally appeared William A. Culhane 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.

Laurie Ann Sexton

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. JUNE 1, 1994  
BONDED THRU GENERAL INS. UND.

STATE OF *Florida*  
COUNTY OF *Seminole*

ss.:

On this *9th* day of *July*, 19*90*, before me personally appeared Paul Lilling 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.

*Jeannette A. Bussard*

Notary Public, State of Florida at Large  
My Commission Expires August 30, 1991  
Bonded thru Huckleberry & Associates