

**MSRB**  
MUNICIPAL SECURITIES RULEMAKING BOARD

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JUN 23 1990  
MSRB

In the Matter of the Arbitration between :  
:  
ROBERT BYRD and BEATRICE BYRD, :  
:  
Claimants, :  
:  
v. :  
:  
GATEWAY SECURITIES, INC. and DAVID WESTON, :  
:  
Respondents. :  
:

AWARD

MS 89-97

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

**CASE SUMMARY**

Claimants allege, among other things, that Respondent David Weston ("Weston"), representing Respondent Gateway Securities, Inc. ("Gateway"), knowingly and deceitfully pressured and manipulated Claimants into swapping \$25,000 WASHINGTON ST PPSS NUCLR PROJ 3, 15.00% interest, due 7/1/18, callable 7/1/96 at 103, and \$15,000 CLARK COUNTY NEVADA AIRPORT IMPT REV, 13.375% interest, due 7/1/12, callable in 1992 at 103, for \$45,000 PHILADELPHIA PA AUTH IDR LOGAN SQ, 16.50% interest, due 5/1/15, callable 5/1/92 at 102.50, and that Claimants subsequently suffered a loss of principal and projected interest as a result of the swap. Claimants allege that they agreed to the swap only because Weston led them to believe that the aforementioned Philadelphia Bonds shortly were to be prerefunded and that that meant that they would be called at the market price of 118 or better. Claimants contend that Respondents knowingly misled them as to the meaning of the term prerefunding and failed to inform them of the possibility of an accelerated call at par on the Philadelphia Bonds.

Gateway argues, among other things, that Claimants' claim is barred by applicable statutes of limitation. Gateway also argues that when recommending the aforementioned Philadelphia Bonds, Weston always stated that the bonds might be prerefunded. Gateway contends that at least twenty-five other customers of Weston purchased the Philadelphia Bonds and none of these customers, all of whom lost money on their investment, ever complained about being told by Weston that the bonds would be prerefunded. In addition, Gateway argues that Claimants are experienced, knowledgeable investors who had been clients of Weston at other brokerage firms for several years and who had had previous experience with many municipal bonds including a prerefunded one. Gateway contends that Claimants had a very clear understanding about prerefunded bonds, having made a profit

on the aforementioned Clark County Bonds when they were prerefunded.

Weston did not file an Answer or appear at the hearing.

#### RELIEF REQUESTED

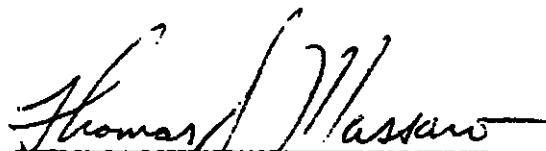
Claimants request \$72,847 in compensatory damages, plus \$10,000 in punitive damages for a total claim of \$82,847. Gateway contends that Claimants' claims have no validity.


#### AWARD

On June 5, 1990, in New York City, New York, the undersigned arbitrators heard the controversy between the parties set forth in submissions to the arbitrators signed by Claimants on November 24, 1989 (filed with the MSRB on November 30, 1989) and by Gateway on January 12, 1990. Weston failed to file a submission to the arbitrators. 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. Gateway shall pay to Claimants \$6,503.77, which includes interest.
2. Weston shall pay to Claimants \$15,175.46, which includes interest.
3. No punitive damages shall be awarded.
4. \$150 of Claimants' \$400 arbitration deposit shall be refunded to Claimants by the MSRB and \$250 shall be retained by the MSRB as forum fees, pursuant to section 2 of MSRB rule A-16.
5. Gateway shall pay to the MSRB \$250 as forum fees, pursuant to section 2 of MSRB rule A-16.

  
Robert W. Cockren

  
Thomas J. Massaro

  
Edward J. Bodner

Dated: June 21, 1990

STATE OF *New York*  
COUNTY OF *New York*

ss.:

On this *14th* day of *June*, 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.

CHRISTINE D. KIDNEY  
Notary Public, State of New York  
No. 24-4878533  
Qualified in Richmond County  
Term Expires November 24, 199*0*

*Christine D. Kidney*

STATE OF *New York*  
COUNTY OF *New York*

ss.:

On this *15th* day of *JUNE*, 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.

*Herbert W. Brooker*

HERBERT W. BROOKER  
Notary Public, State of New York  
No. 43-4512650  
Qualified in Richmond County  
Commission Expires *March 30, 91*

STATE OF *New Jersey*  
COUNTY OF *Belgen*

ss.:

On this *21* day of *June*, 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.

*Shirley M. Heller*

SHIRLEY M. HELLER  
NOTARY PUBLIC OF NEW JERSEY  
by Commission Expires Oct. 25, 199*1*