

**MSRB**  
MUNICIPAL SECURITIES RULEMAKING BOARD

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JAN 30 1991

In the Matter of the Arbitration between :  
: CHARLES and ELLEN DUWE, and KEVIN M. DUWE, :  
: Claimants, :  
: v. :  
: HALPERT AND COMPANY, INC. :  
: Respondent and Third-Party Claimant, :  
: v. :  
: HOWARD PARKER, :  
: Third-Party Respondent. :

AWARD

MS90-23  
SC0-015

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

**CASE SUMMARY**

In October, 1988 Claimants Charles and Ellen Duwe, and Kevin Duwe (collectively, "Claimants") purchased a total of 90,000 Dutchess County, New York Resource Recovery Agency, Resource Recovery Revenue Bonds, Series A ("the Bonds") from Respondent Halpert and Company, Inc. ("Respondent Halpert"). The total amount Claimants paid for the Bonds was \$109,140.71, of which \$106,452 was principal and \$2,688.71 was accrued interest. At the time of the purchase, the Bonds had a coupon rate of 10.625%, a yield to call of 7.3%, a maturity date of January 1, 2008, and a call date of January 1, 1995. Respondent Halpert's registered representative at the time with respect to Claimants' purchase of the Bonds was Respondent Howard Parker ("Third-Party Respondent Parker"). Third-Party Respondent Parker is no longer associated with Respondent Halpert as a registered representative. Claimants allege that, although Respondent Halpert disclosed that the Bonds were callable on January 1, 1995, it failed to disclose that the Bonds also had an extraordinary call provision. Claimants seek to recover losses which they incurred when they sold the Bonds to another dealer in October, 1989.

Respondent Halpert contends that it cannot be held responsible for Claimants' losses because, among other reasons, it sent confirmations to Claimants which stated that "[c]all features or extraordinary call features may exist which could effect (sic) yield" and that details would be "furnished upon request." Respondent Halpert also contends that the Bonds were delivered to Claimants in November, 1988, and that the Bonds themselves contain an explicit description of the extraordinary call feature which Claimants allege was not disclosed to them.

Duwe on March 29, 1990 (filed with the MSRB on April 9, 1990); by Respondent Halpert on August 8, 1990; and by Third-Party Respondent Parker on August 24, 1990, respectively. The undersigned, having considered the matter solely upon the pleadings submitted by the parties, including the exhibits attached thereto, and pursuant to Section 34 of MSRB Rule G-35, has determined, in full and final resolution of the issues submitted for determination, as follows:

Judgment is hereby entered in favor of Respondent Halpert and against Claimants Charles Duwe, Ellen Duwe and Kevin M. Duwe. Third-Party Respondent Parker is hereby dismissed from this proceeding. The undersigned has reached the foregoing determination for the reason that the extraordinary call provision regarding the Bonds was adequately disclosed by Respondent Halpert to Claimants upon their purchase and receipt of the Bonds. The \$200 arbitration fee deposited by Claimants upon the filing of this proceeding shall neither be refunded to Claimants nor assessed against Respondents.

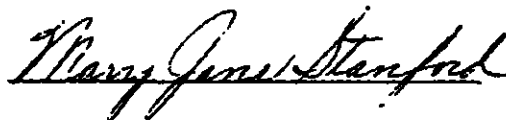
  
Robert J. Jones

Dated: Jan. 28, 1991

STATE OF *Pennsylvania*  
COUNTY OF *Philadelphia*

ss.:

On this *28th* day of *January*, 19 *91*, before me personally appeared Robert J. Jones 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.



NOTARIAL SEAL  
MARY JANE STANFORD, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires Sept. 23, 1993

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\_\_\_\_\_  
Public Arbitrator

Dated: *Jan. 28, 1991*

STATE OF *Pennsylvania*  
COUNTY OF *Philadelphia*

ss.:

On this *28th* day of *January*, 19 *91*, 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.

*Mary Jane Stanford*

NOTARIAL SEAL  
MARY JANE STANFORD, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires Sept. 23, 1993