

**MSRB**  
MUNICIPAL SECURITIES RULEMAKING BOARD

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FEB 6 1991

In the Matter of the Arbitration between	:	
HARRY G. HILL and ARDIS F. HILL,	:	AWARD
Claimants,	:	
v.	:	
MILLER & SCHROEDER MUNICIPALS, INC.	:	MS90-24
and ROGER K. ERAL,	:	SC0-016
Respondents.	:	

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

**CASE SUMMARY/RELIEF REQUESTED**

The Claimants claim that they were induced by the Respondents to exchange certain rated bonds in their possession for other bonds which were non-rated, and that as a result, Claimants suffered damages in the sum of \$13,735.75. Claimants ask to be reimbursed in the sum of \$10,000. Claimants claim that a) the exchange was unsuitable for their income level; b) the exchange was unfair; and, c) they did not receive a requested offering statement.

The Respondents maintain that a) the Claimants had purchased other non-rated bonds; b) the Claimants had stated a preference for bonds maturing in ten years and paying over nine percent interest; c) the Claimants had, by letter, requested a bond swap; d) the information requested by Claimants regarding the bonds in issue was furnished including an offering statement; e) the swap price was the price received in the secondary market; and, f) the Respondents relied upon information provided by the developer, such as a feasibility study relating to occupancy, and became aware of problems with the project in the same manner as Claimants--by a communique from the bond trustee. Respondents ask that Claimants' request for relief be denied.

**AWARD**

The undersigned arbitrator reviewed the controversy between the parties set forth in submissions to the arbitrator signed by Claimants on April 11, 1990 (filed with the MSRB on April 16, 1990); by Respondent Miller & Schroeder Municipals on May 25, 1990; and, by Respondent Roger K. Eral on May 24, 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, to find in favor of the Respondents, and against the Claimants, and further finds that the MSRB should retain the arbitration fee deposited by the Claimants. The arbitrator finds that the Claimants failed to sustain the burden of proof that:

a. That the Claimants had a right to rely upon the information supplied by the Respondents concerning the advantages of "swapping" one series of bonds for another;

1. The printed advertisement (Exhibit 1) contained a disclaimer;
2. Claimants' previous correspondence to Respondents (unnumbered exhibits) before Claimants received the advertisement, indicate that Claimants were knowledgeable.

b. That the Respondents knew, or should have known, at the time of the transaction, that the investment was more risky than other non-rated bonds offering high interest rates.

c. That the Respondents had an obligation to inquire about Claimants' income level, when Claimants did not solicit advice on whether investment in non-rated bonds was "suitable" for their income level.

d. That the prices received for Claimants' bonds which were exchanged for the bonds in issue were unfair at the time the sales were made.

e. That the Claimants did not receive the requested offering statement;

1. There is a conflict in the evidence presented whether the offering statement was sent or received;
2. That Claimants' investment plan would have changed if they had received the information that was available to the Respondents at the time of the request.

  
James East

Dated:

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ENCLOSURE

STATE OF  
COUNTY OF

ss.:

On this 4th day of February, 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.

Gina DiCaro

