

MSRB
MUNICIPAL SECURITIES RULEMAKING BOARD

In the Matter of the Arbitration between		:
		:
		:
	Claimants,	:
		:
v.		:
		:
MANLEY, BENNETT, MCDONALD & CO., INC.		:
a/k/a MBM GROUP, INC. & SUBSIDIARIES		:
and CAROL SWIGER METZ,		:
	Respondents.	:
		:

AWARD

MS 90-3

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

CASE SUMMARY

Claimants allege violations of federal and state securities law and common law by Respondents in connection with the marketing and sale in the fall of 1980 of The Economic Development Corporation of the City of Frankenmuth, Michigan, Limited Obligation First Mortgage Revenue Bonds (Independence Village, Inc.), Series A, Lutheran Homes of Michigan, Inc., Guarantor ("the Bonds"), which went into default in July, 1984. Claimants contend that Respondent Manley, Bennett, McDonald & Co., Inc. a/k/a MBM Group, Inc. & subsidiaries ("Respondent MBM"), co-underwriter of the Bonds, aggressively marketed the Bonds despite clear indications that the Independence Village project was economically unsound and knowing that Respondent MBM's registered representatives were making misstatements about the Bonds to the investing public, namely: that the Bonds were guaranteed by the Lutheran Church and bore no risk. Claimants allege that Respondent Carol Swiger Metz ("Respondent Metz") was the registered representative of Respondent MBM who made such statements to Claimants and that, in reliance thereon, Claimants purchased \$65,000 face amount of the Bonds.

Respondents deny that they engaged in the alleged fraudulent scheme or that any of the alleged oral misrepresentations were made to Claimants. Respondents contend, among other things, that Claimants' claims are time barred. In addition, Respondents argue that Claimants were experienced investors and were provided with a copy of the official statement for the Bonds in connection with their offer to purchase same. Respondents maintain that even if the alleged oral misrepresentations had been made to Claimants, Claimants could not have relied upon such oral statements, as a matter of law, in light of contrary and unambiguous

statements set forth in the official statement. Respondents further contend that Respondent Metz inherited Claimants' account from another account executive at Respondent MBM, and that Claimants purchased the Bonds based upon representations made by the other account executive, not by Respondent Metz.

RELIEF REQUESTED

Claimants seek to recover \$54,000 in trading losses, \$38,880 in lost interest, their attorney fees and costs including their \$500 arbitration deposit, and punitive damages in the amount of \$270,000, for a total claim of approximately \$363,380.

Respondents request that the claims of the Claimants be dismissed.

AWARD

On March 26-27, 1991, in Detroit, Michigan, the undersigned arbitrators heard the controversy between the parties set forth in submissions to the arbitrators signed by Claimants on October 2, 1989 (filed with the MSRB on October 12, 1989); by Respondent MBM on February 1, 1990; and, by Respondent Metz on February 9, 1990. 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, as follows:

1. The claims of the Claimants are dismissed in their entirety.
2. Each of the parties shall bear its own costs, including attorney's fees.
3. Claimant's \$500 arbitration deposit shall be retained by the MSRB as forum fees, pursuant to section 2 of MSRB rule A-16.
4. Both Claimants' and Respondents' \$100 adjournment fees shall be retained by the MSRB, pursuant to section 20(b) of MSRB rule G-35.

Robert A. Creamer
Robert A. Creamer

Paul T. Stubbins
Paul T. Stubbins

Wayne Parker
Wayne Parker

Dated: 5/20/91

STATE OF
COUNTY OF

SS.:

On this 16th day of May, 1991, 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.

Katharina H. Argyris

STATE OF
COUNTY OF

Ohio
Hamilton



On this 17th day of May, 1991, 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 Werner
Mary Jane Werner, Notary Public
State of Ohio
SS : My Commission Expires: 8/15/92

STATE OF NC
COUNTY OF Wake

On this 20th day of May, 1991, 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.

Melissa B. Mills
My Commission Expires 5-10-94