

MSRB
MUNICIPAL SECURITIES RULEMAKING BOARD

In the Matter of the Arbitration between	:	
	:	
	:	
,	:	AWARD
	:	
v.	:	
	:	
	:	MS90-39
BLUNT ELLIS & LOEWI, INC., AND	:	SC0-024
ROBERT D. GAGNON,	:	
	:	
Respondents,	:	
	:	

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

CASE SUMMARY

Claimant alleges that on 9-11-86 Respondent Robert D. Gagnon called and stated that he had a very good bond to sell: Madison Wis IDR, Divall Hamilton LTD Coll 1st Sav Assn WI, CPN 9.625%, due 11-1-94, DTD 11-1-84, call 11-1-90 @ 103 (the "bonds"). Claimant maintains that she is a conservative investor and it is not her usual practice to purchase bonds with a maturity greater than four years, however, in this instance, she alleges, Respondent Mr. Gagnon stated that because of the high interest rate the Bonds would probably be called on the first call date of 11-1-90 @ 103. Claimant also alleges that Respondent Mr. Gagnon stated that if the Bonds were not called on 11-1-90 @ 103, they could be called any time thereafter, at par. In addition, Claimant alleges that Respondent Mr. Gagnon described the Bonds as AAA rated backed by Ginnie Maes, and she purchased \$60,000 at a premium based on the 11-1-90 call date. On 1-12-90, Claimant alleges, she received her statement and discovered that the bonds had been called on 12-1-89 and later, upon inquiry to Respondent Mr. Gagnon, she discovered that the reason the Bonds were called was because they were in default. Claimant contends that the Bonds were misrepresented and/or should have been priced at par or close to par and that she would not have purchased the Bonds had she been informed that they could be called at any time.

Respondents deny that the Bonds were misrepresented to Claimant, were improperly priced, or were inappropriate for Claimant in light of her investment objectives. Respondents argue that Claimant is a knowledgeable and sophisticated investor with

extensive experience in purchasing bonds, having invested close to \$1.5 million in 57 different bonds through Blunt Ellis & Loewi Inc. Respondents deny that any representation was made to Claimant that "callable at any time meant if not called 11-1-90, they could be called at any time after that period." Respondents argue that there was no discussion concerning whether the Bonds were callable at any time, however, Claimant's confirmation stated on its face that "Call Features Exist: May Affect Yield: Information Available On Request" and "Callable Any Date." Respondents also maintain that Claimant's claim is barred by the doctrines of laches, estoppel and ratification. Respondents also deny Claimant's contention that she was unaware of the risk of default associated with bond investments and argue that they are unable to guarantee customers against a loss in any account or on any transaction.

RELIEF REQUESTED

Claimant request compensatory damages in the amount of \$7575, which includes \$5775 in lost interest for the year 1990 (on \$60,000 at 9.625%) and \$1800 in lost premium due to the call at par versus 103. Claimant also requests punitive damages as may be deemed appropriate.

Respondents request that Claimant's claims be dismissed in their entirety, and the return of Respondents' arbitration deposit.

AWARD

On December 4, 1990, in Chicago, Illinois, the undersigned arbitrator heard the controversy between the parties set forth in submissions to the arbitrator signed by Claimant on May 18, 1990 (filed with the MSRB on July 6, 1990); and by Respondent Robert D. Gagnon on July 23, 1990; and by Respondent Blunt Ellis & Loewi Inc. on July 25, 1990. The undersigned, 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 the claims of the Claimant should be and are hereby dismissed in their entirety. Each of the parties shall bear its own costs including attorney fees, and Respondents' \$200 arbitration deposit shall be retained by the MSRB as forum fees, pursuant to MSRB rule A-16(2). In addition, Respondents' request for a written opinion is denied.

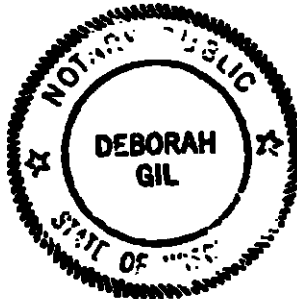
Public Arbitrator

Dated: 1-25-91


SS.:

STATE OF Wisconsin
COUNTY OF Milwaukee

On this 25th day of January, 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.



Deborah Gil
exp 10-11-91

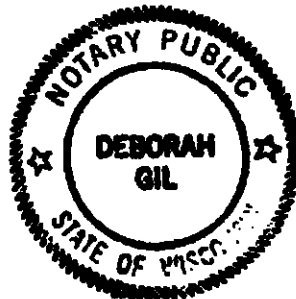

Ewald L. Moerke, Jr.

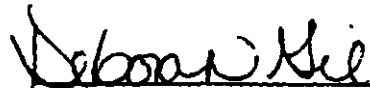
Dated: 1-28-91

SS.:

STATE OF Wisconsin
COUNTY OF Milwaukee

On this 25th day of January, 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.




exp. 10-11-91