



APR 6 1992

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In the Matter of the Arbitration between :
:
:
Claimant, :
:
v. :
:
MICHAEL D. BERLOFF, :
:
Respondent. :
:

AWARD

MS 91-38

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

CASE SUMMARY

Claimant alleges that Respondent Michael D. Berloff, a registered representative of Prudential-Bache Securities, Inc., failed to follow Claimant's investment objectives in connection with the sale to Claimant on December 30, 1986 of \$120,000 New York City General Obligation Bonds, Fiscal Series 1987-C Group B, dated 12/1/86, 7%, due 2/1/15 (the "Bonds"). Claimant alleges, among other things, that Claimant informed Respondent that he wanted a short term investment, and that it was not until after Claimant had paid for the Bonds and received the confirmation that he realized that Respondent had purchased bonds having a thirty year maturity. Claimant alleges that Respondent explained that it was Respondent's opinion that interest rates would be dropping and that Claimant would do better with long term bonds even though Claimant did not intend to hold them. Claimant alleges that he instructed Respondent to sell the Bonds if there was any change in their value. Claimant alleges that interest rates went up and that Respondent continually advised Claimant that rates would go back down and to hold onto the Bonds. Claimant maintains that Respondent should not have purchased long term bonds when Claimant had requested a short term investment.

Respondent argues, among other things, that the investment was adequately disclosed to Claimant and was suitable. Respondent argues that Claimant fully authorized the transaction in question before it took place. Respondent argues that Claimant accepted the trade and that this constitutes ratification. Respondent argues that while it may have been Respondent's recommendation that Claimant hold onto the position in the belief that interest rates would fall, it was Claimant's decision to follow this advice. Respondent argues that the claims are barred

by applicable statutes of limitations, by the doctrines of estoppel and waiver, and that Claimant has failed to mitigate and/or minimize his losses.

RELIEF REQUESTED

Claimant requests a short term municipal bond valued at approximately \$120,000.

Respondent requests that the claims of the Claimant be dismissed in their entirety.

AWARD

On February 21, 1992, in New York, New York, the undersigned arbitrators heard the controversy between the parties set forth in submissions to the arbitrators signed by Claimant on May 20, 1991 (filed with the MSRB on May 24, 1991) and by Respondent on July 11, 1991. 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 panel finds no liability on the part of Respondent and therefore the claims of the Claimant shall be dismissed in their entirety. The issue of liability aside, it is the panel's opinion that Claimant has suffered no damages and is in a better position today than he would have been had he pursued the investment strategy that he described at the hearing.
2. Claimant's \$100 arbitration deposit shall be refunded to Claimant by the MSRB, pursuant to MSRB rule A-16(2).

Public Arbitrator

Public Arbitrator

Industry Arbitrator

Dated:

ACB

STATE OF New Jersey
COUNTY OF Daion

ss.:

On this 27th day of March, 1992, 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.

Carolyn Primavera

CAROLYN PRIMAVERA
Notary Public, State of New Jersey
ss.: My Commission Expires June 1, 1995

STATE OF New Jersey
COUNTY OF MORRIS

On this 30th day of March, 1992, 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.

Jeannette Carey

JEANNETTE M. CAREY
NOTARY PUBLIC OF NEW JERSEY
ss.: My Commission Expires May 1, 1996

STATE OF ~~New Jersey~~ NEW YORK
COUNTY OF ~~Morris~~ Nassau

On this 2nd day of APRIL, 1992, 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.

Sophie G. Lattarone

by applicable statutes of limitations, by the doctrines of estoppel and waiver, and that Claimant has failed to mitigate and/or minimize his losses.

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Robert W. Cockren


Dominick V. Bonanno


John Baldwin

Dated:

AS