

MSRB
MUNICIPAL SECURITIES RULEMAKING BOARD

MAY 28 1992

In the Matter of the Arbitration between :
MARVIN GELBER, : AWARD
Claimant, :
v. :
LFG INVESTMENTS, INC., FORMERLY LANDMARK : MS91-48
INVESTMENT SERVICES, : SC1-018
Respondent. :

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

CASE SUMMARY

Claimant alleges that on 7/30/85 Claimant purchased from Respondent \$90,000 MARYLAND HLTH & EDL FACLS AUTH REV-ROLAND PK PLACE DTD 7/1/82 INT FR 9/1/82-CLBL-CALLABLE 7/1/92 DUE 7/1/99 14.25% JJ 01 S&P AAA RTG 7.90 (the "Bonds"). Claimant alleges that on 6/7/91 Claimant was notified by Landmark Bank that the Bonds had been called on 7/1/90 and that his account would be debited \$6,412.50 for the coupons he had deposited in January, 1991. Claimant alleges that Claimant subsequently learned that only one of the Bonds had been called on 7/1/90 and one more was called on 7/1/91. Claimant alleges that when Claimant purchased the Bonds in 1985, Respondent's representative told him that the Bonds were callable 7/1/92. Claimant contends that Respondent was negligent in handling Claimant's account and that Respondent should have advised Claimant about the sinking fund call feature at the time of purchase and on the confirmation, and on a list of Claimant's purchases which Claimant had requested.

Respondent argues that Claimant purchased various municipal securities in his account and took physical delivery of those securities in 1985, and that Respondent had no further contact with Claimant until Claimant telephoned Respondent in July, 1991, to complain about the call of one \$5,000 bond in his possession. Respondent argues that at the time of Claimant's dealings with Respondent, Respondent had been a department of Landmark Bank, then a dealer bank, and that Respondent became an independent and separate broker/dealer in 1986. Respondent argues that all municipal bonds were purchased in simultaneous riskless principal transactions, that securities were purchased from other dealers for clients based on the client's objective and the order to buy, and that all trades were processed through Respondent clearing agent which provided the printed confirmation, custody and

statements. Respondent argues that the pre-refunded bonds purchased by Respondent from another broker/dealer and that the trade was reported to Respondent's clearing agent using the correct CUSIP number for identification. Respondent argues that during the process of answering Claimant's complaint, Respondent discovered that the Bonds were unusual in having a sinking fund prior to the first optional call. Respondent argues that the securities industry relies upon the CUSIP number which did not disclose the possibility of this call. Respondent argues that the list of purchases prepared at Claimant's request was condensed from the confirmations sent to Claimant. Respondent maintains that it was not negligent in the handling of Claimant's account, that it is not possible to monitor a clients's holdings when the assets are in the client's possession and there is no further contact with the client, and that the issue of the late call notice falls back to the paying agent and not Respondent.

RELIEF REQUESTED

Claimant seeks to recover \$712.50, representing one year's lost interest on the one bond called on 7/1/90.

AWARD

The undersigned arbitrator reviewed the controversy between the parties set forth in submissions to the arbitrator signed by Claimant on July 12, 1991 (filed with the MSRB on July 29, 1991) and by Respondent on September 11, 1991. 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, as follows:

1. Respondent shall pay Claimant \$712.50.
2. Claimant's \$15 arbitration deposit shall be refunded to Claimant by the MSRB, pursuant to MSRB rule A-16(2).

Public Arbitrator

Dated: May 27, 1992

STATE OF *New York*
COUNTY OF *Westchester*

ss.:

On this *17th* day of *May*, 19*42*, 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.

Mark L. Davies

MARK L. DAVIES
Notary Public, State of New York
No. 4651248
Qualified in Westchester County
Term Expires September 30, 19*43*

statements. Respondent argues that the pre-refunded bonds purchased by Respondent from another broker/dealer and that the trade was reported to Respondent's clearing agent using the correct CUSIP number for identification. Respondent argues that during the process of answering Claimant's complaint, Respondent discovered that the Bonds were unusual in having a sinking fund prior to the first optional call. Respondent argues that the securities industry relies upon the CUSIP number which did not disclose the possibility of this call. Respondent argues that the list of purchases prepared at Claimant's request was condensed from the confirmations sent to Claimant. Respondent maintains that it was not negligent in the handling of Claimant's account, that it is not possible to monitor a clients's holdings when the assets are in the client's possession and there is no further contact with the client, and that the issue of the late call notice falls back to the paying agent and not Respondent.

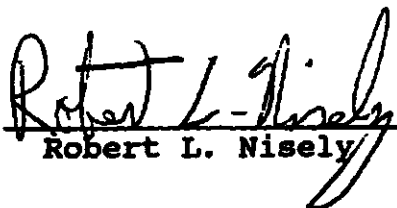
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Robert L. Nisely

Dated: May 27, 1992