

MSRB
MUNICIPAL SECURITIES RULEMAKING BOARD

SEP 2 1992

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In the Matter of the Arbitration between :
:
:
Claimant, :
:
v. :
:
GRIFFIN, KUBIK, STEPHENS AND THOMPSON, INC., :
Respondent. :
:

AWARD

MS 91-55

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

CASE SUMMARY

Claimant alleges that Respondent made misrepresentations and omissions of material facts in connection with the sale to Claimant of the following municipal bonds:

- \$300,000 face amount of Louisiana Agricultural Finance Authority 8.25% Agricultural Revenue Bonds Series 1986A, due 10/1/96, dated 9/1/86, purchased by Claimant on 9/2/86;
- \$200,000 face amount of The Health, Educational and Housing Facility Board of the City of Memphis, Tennessee 8.68% Securitized Multifamily Housing Revenue Bonds Series 1986A, due 9/15/96, dated 9/15/86, purchased by Claimant on 10/3/86;
- \$250,000 face amount of Louisiana Agricultural Finance Authority 8.80% Securitized Agricultural Revenue Bonds Series 1986A, due 10/1/96, dated 9/15/86, purchased by Claimant on 10/9/86;
- \$100,000 face amount of El Paso Housing Finance Corporation 8.88% Securitized Multifamily Housing Revenue Bonds Series 1986A due 10/15/96, dated 10/15/86, purchased by Claimant on 10/17/86;
- \$250,000 face amount of Adams County, Colorado 9% Industrial Development Revenue Bonds Series 1986A Pool, due 11/1/96, dated 11/25/86, purchased by Claimant on 10/23/86;
- \$100,000 face amount of Adams County, Colorado 9% Industrial Development Revenue Bonds Series 1986A Pool, due 11/1/96, dated 11/25/86, purchased by Claimant on 11/3/86;
- \$250,000 face amount of Nebraska Investment Finance Authority 8.34% Agricultural Revenue Bonds Series 1986A, due 11/1/93, dated 11/1/86, purchased by Claimant on 11/13/86;

- \$250,000 face amount of The Health, Educational and Housing Facility Board of the City of Memphis, Tennessee 8.68 $\frac{1}{2}$ Securitized Multifamily Housing Revenue Bonds Series 1986A, due 9/15/96, dated 9/15/86, purchased by Claimant on 1/27/87.

Claimant asserts, among other things, claims for violations of Section 12 of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, Section 12 of the Illinois Securities Act of 1953, As Amended and MSRB Rules G-17 and G-19, and for negligence, common law fraud and breach of contract ("Shingle Theory").

Respondent categorically denies each and every allegation of wrongdoing asserted by Claimant and denies that it is responsible for any damages in any amount. Respondent also argues, among other things, that Claimant's claims under the Federal Securities Acts and the Illinois Act are barred by the applicable statute of limitations and that no private right of action exists for alleged violations of MSRB rules; hence, that there is no jurisdiction under which said claims may be arbitrated. Respondent also argues that Respondent reasonably relied on the rating services and on information contained in the Official Statements in evaluating the bonds in question and that Respondent acted in accordance with the standards of its profession and in accordance with Claimant's expressed objectives and directions. Respondent contends that Claimant did not justifiably rely to its detriment upon any alleged misrepresentation or omission in that Claimant received Official Statements for each of the bond issues in question. Respondent argues that Claimant's losses, if any, were a direct result of Claimant's own investment decisions and/or attributable to market fluctuation and other factors over which Respondent had no control. Respondent contends that the claim is barred by the doctrines of waiver, ratification and estoppel and that Claimant is without standing to assert the claims in question in that Claimant was purchased by a bank holding company sometime during 1989, long after the bonds in question originally were purchased.

RELIEF REQUESTED

Claimant seeks to recover damages in the amount of \$1,151,643.30, plus interest thereon, less any income received, its costs and for such other and further relief as the arbitrators will allow. Claimant also seeks to recover its attorneys' fees under Section 13 of the Illinois Act.

Respondent requests that the Statement of Claim be denied in its entirety and that Respondent be awarded its costs.

AWARD

On June 10-11, 1992, in Chicago, Illinois, the undersigned arbitrators heard the controversy between the parties set forth in submissions to the arbitrators signed by Claimant on August 28, 1991 (filed with the MSRB on August 30, 1991) and by Respondent on November 7, 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 rules in favor of the Respondent and against the Claimant in all respects.
2. Each party shall bear its own costs, including attorneys' fees.
3. Claimant's \$1000 arbitration deposit shall be retained by the MSRB as forum fees for the first day of hearing and an additional \$1000 shall be assessed against the Claimant as forum fees for the second day of hearing, pursuant to Section 2 of MSRB Rule A-16.

OTHER ISSUES

The panel dismissed at the hearing claims asserted under Section 12 of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, upon Respondent's motion that such claims are barred by the applicable statute of limitations and that there is no jurisdiction under which these claims may be arbitrated.

Public Arbitrator

Public Arbitrator

Industry Arbitrator

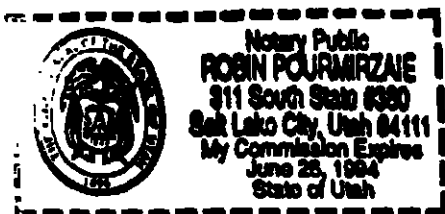
Dated: 9/1/92

STATE OF
COUNTY OF

Utah
Salt Lake

SS.:

On this *1st* day of *September*, 19*92*, 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.



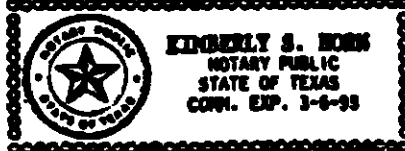
[Signature]

STATE OF
COUNTY OF

Texas
Dallas

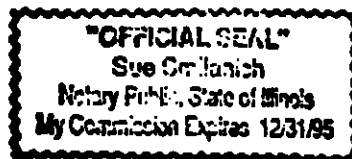
SS.:

On this *28* day of *Aug*, 19*92*, 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.



Kimberly S. Horn

STATE OF
COUNTY OF



SS.:

On this *26th* day of *August*, 19*92*, 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.

Sue O'Manich


AWARD

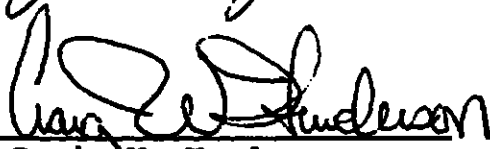
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Julian D. Jensen


Craig W. Henderson


George C. Witte

Dated: 9/1/92