

MSRB

MUNICIPAL SECURITIES RULEMAKING BOARD

JUN 22 1992

In the Matter of the Arbitration between	:	
ARTHUR F. JONES and THERESA E. JONES,	:	
Claimants,	:	AWARD
V.	:	
MCLAUGHLIN, PIVEN, VOGEL SECURITIES, INC.,	:	MS91-66
and ROBERT BRAUN,	:	SC1-022
Respondents.	:	

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

CASE SUMMARY/RELIEF REQUESTED

Claimants protested a \$50 annual service fee charged to their account by Respondent McLaughlin, Piven, Vogel Securities, Inc. ("McLaughlin"). Claimants allege that on or about October 8, 1990 a McLaughlin employee erroneously advised Claimants that the annual fee could only be avoided by selling book-entry form bonds and purchasing instead registered bonds.

Claimants allege that they subsequently spoke with another McLaughlin employee, Respondent Robert Braun ("Braun"), who they allege, attempted to sell them a registered bond. Claimants allege that they did not agree to any such trade but requested additional information in writing.

Thereafter, Respondents sold for Claimants' account three \$5,000 book-entry municipal bonds and purchased one \$15,000 registered municipal bond. Claimants allege that these transactions were unauthorized and were executed without Claimants' knowledge or consent.

Claimants also allege that Respondents subsequently reversed these transactions without Claimants' authorization, knowledge or consent. Claimants seek to recover \$474 that Claimants allege was wrongfully removed from Claimants' account in connection with these transactions. Claimants seek interest on this amount from November 2, 1990 to the date that Claimants are made whole.

Respondents argue, among other things, that Claimants authorized the sale of the book-entry bonds and the purchase of the registered bond to avoid the \$50 annual service charge applicable to book-entry bonds. Respondents argue that Claimants subsequently denied knowledge of these transactions. Respondents argue that the transactions were reversed to their original status and that there was a market loss incurred in "closing out" Claimants' purchase of the registered bond.

AWARD

On April 22, 1992, in New York, New York, the undersigned arbitrator heard the controversy between the parties set forth in submissions to the arbitrator signed by Claimants on September 26, 1991 (filed with the MSRB on October 2, 1991) and by Respondents on November 14, 1991. The undersigned, having considered the pleadings, the testimony and the evidence presented at the hearing, as well as the additional information submitted by the parties after the hearing, has determined, in full and final resolution of the issues submitted for determination, as follows:

1. McLaughlin shall pay to Claimants the sum of \$474, plus simple interest on said amount at 9% per annum based on a 360-day year from November 2, 1990 to the date of payment of this award.
2. Claimants' claim against Braun is dismissed with prejudice.
3. Claimants' \$15 arbitration deposit shall be refunded to Claimants by the MSRB and assessed against McLaughlin as forum fees, pursuant to section 2 of MSRB rule A-16.

Public Arbitrator

Dated: 6-17-92

STATE OF *New York*
COUNTY OF *Kings*

ss.:

On this 17th day of June, 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.

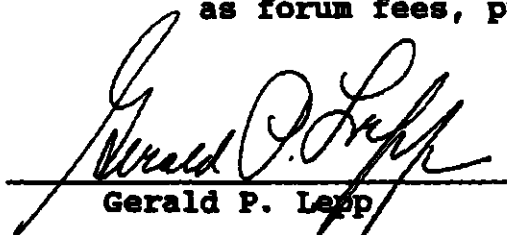
MARY CECELIA VOLK
Notary Public, State of New York
No. 24-4978229
Qualified in Kings County
Commission Expires Feb. 25, 1993

Mary Cecilia Volk

AWARD

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1. McLaughlin shall pay to Claimants the sum of \$474, plus simple interest on said amount at 9% per annum based on a 360-day year from November 2, 1990 to the date of payment of this award.
2. Claimants' claim against Braun is dismissed with prejudice.
3. Claimants' \$15 arbitration deposit shall be refunded to Claimants by the MSRB and assessed against McLaughlin as forum fees, pursuant to section 2 of MSRB rule A-16.


Gerald P. Lepp

Dated: 6-17-92

STATE OF *New York*
COUNTY OF *Kings*

ss.:

On this *17th* day of *June*, 19*92*, before me personally appeared Gerald P. Lepp 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 CECELIA VOLK
Notary Public, State of New York
No. 24-4978229
Qualified in Kings County
Commission Expires Feb. 25, 1993

