

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Prudential Equity Group, Inc.

and

Case Number: 02-05762
Hearing Site: Houston, Texas

Name of Respondent

David B. Thomas, Sr.

NATURE OF DISPUTE

Member Firm v. Associated Person

REPRESENTATION OF PARTIES

Prudential Equity Group, Inc. ("**Claimant**") was represented by J. Scott Hogan, Esq., of Munsch, Hardt, Kopf & Harr, PC, of Dallas, Texas.

David B. Thomas, Sr. ("**Respondent**") of Cytess, Texas, represented himself.

CASE INFORMATION

The Statement of Claim was filed on or about September 30, 2002.

The Submission Agreement of Claimant Prudential Equity Group, Inc. was signed on or about September 16, 2002.

Respondent David B. Thomas, Sr. did not file an Answer and did not sign a Submission Agreement.

Claimant filed a Motion to Preclude the Answer on or about November 17, 2003.

CASE SUMMARY

This was an action by a securities firm to recover the balance due pursuant to a promissory note given to a former employee, David B. Thomas, Sr. According to the Statement of Claim, Respondent has failed and refused to honor his obligations under the note, which requires him to repay the outstanding principal balance, interest, plus costs and expenses

of collection.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$319,598.61
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent David B. Thomas, Sr. has been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code").

Respondent David B. Thomas, Sr. did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

A pre-hearing was held on April 7, 2003, which David B. Thomas, Sr. did not participate in. At that pre-hearing, a hearing date of September 5, 2003, was scheduled. In a letter dated August 13, 2003, the Claimant's attorney requested a postponement of the September 5, 2003, hearing date, stating that Prudential Equity Group, Inc. had achieved personal service of their Statement of Claim upon David B. Thomas, Sr. on August 11, 2003. Claimant wanted to provide Mr. Thomas ample time to file an Answer to the Statement of Claim. Another pre-hearing date was set for September 5, 2003. Mr. Thomas did not participate in this call, and a hearing date was scheduled for December 3, 2003.

On November 17, 2003, Claimant filed a Motion to Preclude. No Answer had been filed by the time of hearing. At the hearing, Mr. Thomas did appear and then stated he had filed an Answer. Neither the Claimant, the Panel nor the NASD had received a copy of Mr. Thomas' Answer. Mr. Thomas said that he had a copy of his Answer in his old office. The Panel granted a recess to give Mr. Thomas time to retrieve a copy of his Answer to the

Statement of Claim. The hearing resumed a few hours later, after Mr. Thomas had returned. Mr. Thomas did not produce a copy of his Answer.

The Panel granted Claimant's Motion to Preclude based on Mr. Thomas' failure to file an Answer to the Statement of Claim. The Panel concluded that Mr. Thomas was fully aware of the hearing and he exhibited a total disregard for the arbitration process.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, David B. Thomas, Sr., shall pay to Claimant, Prudential Equity Group, Inc., the sum of \$319,598.61 in compensatory damages;
- 2.) Respondent, David B. Thomas, Sr., shall pay to Claimant, Prudential Equity Group, Inc., the sum of \$15,000 in attorneys fees pursuant to the terms of the promissory note;
- 3.) Respondent, David B. Thomas, Sr., shall pay to Claimant, Prudential Equity Group, Inc., interest on the above stated sum at the rate of 7% per annum from and including 10/25/01 through and including 12/3/03 pursuant to the terms of the promissory note; and
- 4.) Any relief not specifically enumerated is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$1000.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Prudential Equity Group, Inc.

Member surcharge	= \$1700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2750.00

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Date, September 5, 2003, adjournment by Claimant	= \$1125.00
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Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing session(s) with Panel x \$1125.00	= \$2250.00
Pre-hearing conferences: April 7, 2003	1 session
September 5, 2003	1 session
Two (2) Hearing sessions x \$1125.00	= \$2250.00
Hearing Dates: December 3, 2003	2 sessions
Total Forum Fees	= \$4500.00

The Arbitration Panel has assessed \$4500.00 of the forum fees to David B. Thomas, Sr.

FEE SUMMARY

Claimant, Prudential Equity Group, Inc., is liable for:

Initial Filing Fee	= \$1000.00
Member Fees	= \$5200.00
Adjournment Fee	= \$1125.00
Total Fees	= \$7325.00
Less payments	= \$7325.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondent, David B. Thomas, Sr., is liable for:

<u>Forum Fees</u>	= \$4500.00
<u>Total Fees</u>	= \$4500.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$4500.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Dolores Martin - Non-Public Arbitrator, Presiding Chair
Jane E. Bates - Non-Public Arbitrator
Hale E. Cullom - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Dolores Martin
Dolores Martin
Non-Public Arbitrator, Presiding Chair

December 30, 2003
Signature Date

/s/ Jane E. Bates
Jane E. Bates
Non-Public Arbitrator

January 5, 2004
Signature Date

/s/ Hale E. Cullom
Hale E. Cullom
Non-Public Arbitrator

January 5, 2004
Signature Date

January 5, 2004
Date of Service (For NASD office use only)

ARBITRATION PANEL

Dolores Martin - Non-Public Arbitrator, Presiding Chair
Jane E. Bates - Non-Public Arbitrator
Hale E. Cullom - Non-Public Arbitrator

Concurring Arbitrators:

Dolores Martin
Dolores Martin
Non-Public Arbitrator, Presiding Chair

12-30-03
Signature Date

Jane E. Bates
Jane E. Bates
Non-Public Arbitrator

Signature Date

Hale E. Cullom
Hale E. Cullom
Non-Public Arbitrator

Signature Date


Date of Service (For NASD office use only)

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Concurring Arbitrators:

Dolores Martin
Non-Public Arbitrator, Presiding Chair


Jane E. Bates
Non-Public Arbitrator

Signature Date

1/5/04
Signature Date

Hale E. Cullom
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Concurring Arbitrators:

Dolores Martin
Non-Public Arbitrator, Presiding Chair

Signature Date

Jane E. Bates
Non-Public Arbitrator

Signature Date



Hale E. Cullom
Non-Public Arbitrator

1/5/04

Signature Date

Date of Service (For NASD office use only)