

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Philip DeLuca and C. Dean Bityk v. Daniel Peter Thomas, Jr., North American Financial Group, Inc., and North American Financial Services, Inc.

Case Number: 99-2409

Hearing Site: Detroit, Michigan

REPRESENTATION OF PARTIES

Claimants, C. Dean Bityk ("Bityk") and Philip DeLuca ("DeLuca") hereinafter collectively referred to as "Claimants": Anthony V. Trogan, Esq., Weisman, Trogan, Young & Schloss, P.C., Bingham Farms, Michigan.

Respondent, Daniel Peter Thomas, Jr. ("Thomas"), hereinafter referred to as "Respondent": Dennis J. Levasseur, Esq., Bodman, Longley & Dahling LLP.

Respondent, North American Financial Group, Inc.: did not appear.

Respondent, North American Financial Services, Inc: did not voluntarily submit to arbitration.

CASE INFORMATION

Statement of Claim filed on or about: May 20, 1999

Claimant, C. Dean Bityk, signed the Uniform Submission Agreement: May 12, 1999

Claimant, Philip DeLuca, signed the Uniform Submission Agreement: May 12, 1999

Statement of Answer filed by Respondent, Daniel Peter Thomas, Jr., on or about: December 6, 1999

Respondent, Daniel Peter Thomas, Jr., signed the Uniform Submission Agreement: November 8, 1999

No Statement of Answer filed by/on behalf of North American Financial Group, Inc.

No Statement of Answer filed by/on behalf of North American Financial Services, Inc.

Respondent Daniel Peter Thomas, Jr.'s Motion to Strike Claimants' 20 Day Disclosure submitted on or about: July 31, 2000

Claimants' Response to Motion to Strike Claimants' 20 day Disclosure submitted on or about: August 10, 2000

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; common law fraud; conspiracy; promissory estoppel; conversion; negligence; malpractice; breach of fiduciary duty; breach of Michigan Securities law; and violation of Michigan Consumer's Protection Law. The causes of action relate to the purchase of North American Financial Services Companies, Inc. 12% Class C Convertible Preferred Stock offered by Respondents.

Unless specifically admitted in his Answer, Respondent Thomas denied the allegations made in the Statement of Claim and asserted affirmative defenses including, but not limited to, the following: Claimants have failed, in whole or in part, to state a claim upon which relief can be granted; Claimants' claims are barred by the applicable statute of limitations; Claimants' claims are barred, in whole or in part, under the equitable principles of estoppel, waiver, ratification and/or laches; and Claimants have failed to mitigate their losses.

RELIEF REQUESTED

Claimants requested the following relief jointly and severally as to all Respondents: \$50,000.00 in out-of-pocket losses, plus interest, costs, attorney fees, exemplary and punitive damages, additional damages as allowed by the panel, and the rescission of all transactions and payment of all monies necessary to make them whole.

Respondent Thomas requested that Claimants' claims be dismissed with prejudice, that Claimants recover nothing against Respondent Thomas, plus arbitration expenses including attorney fees, and other and further relief as the arbitration panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Respondent North American Financial Group, Inc., had not been properly served with the Statement of Claim nor received due notice of the hearing.

The Panel did not adjudicate any claims against Respondent North American Financial Group, Inc. or Respondent North American Financial Services, Inc.

At hearing, the Panel denied Respondent Daniel Peter Thomas, Jr.'s Motion to Strike Claimants' 20 Day Disclosure.

AWARD

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

A. Finding of Fact:

- 1.) Respondent, Daniel Peter Thomas, Jr., knew that the security he offered to Claimants Philip DeLuca and C. Dean Bityk was unsuitable to either of them.

B. Rulings

- 1.) Respondent, Daniel Peter Thomas, Jr., is liable for and shall pay to Claimant, Philip DeLuca, the sum of \$15,000.00 in compensatory damages;
- 2.) Respondent, Daniel Peter Thomas, Jr., is liable for and shall pay to Claimant, C. Dean Bityk, the sum of \$15,000.00. In compensatory damages;
- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 4.) That any relief not specifically enumerated, including punitive and exemplary damages is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$175.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel x \$600.00	= \$ 600.00
Pre-hearing conference: April 7, 2000 1 session	
Four (4) Hearing sessions x \$600.00	= \$2,400.00
Hearing Dates: August 16, 2000 2 sessions	
August 17, 2000 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$3,000.00

The Panel has assessed \$750.00 of the forum fees to Philip DeLuca

The Panel has assessed \$750.00 of the forum fees to C. Dean Bityk.

The Panel has assessed \$1,500.00 of the forum fees to Daniel Peter Thomas, Jr.

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration # 99-2408
Award Page 4 of 4

Fee Summary

Claimants, and Philip DeLuca and C. Dean Bityk, be and hereby are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Total Fees</u>	= \$ 175.00
<u>Less payments</u>	= \$ 175.00
<u>Balance Due NASD Regulation, Inc.</u>	= \$ 0.00

Claimant, Philip DeLuca, be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$ 750.00
<u>Less payments</u>	= \$ 750.00
<u>Balance Due NASD Regulation, Inc.</u>	= \$ 0.00

Claimant, C. Dean Bityk, be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$ 750.00
<u>Less payments</u>	= \$ 350.00
<u>Balance Due NASD Regulation, Inc.</u>	= \$ 400.00

Respondent, Daniel Peter Thomas, Jr., be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 1,500.00
<u>Total Fees</u>	= \$ 1,500.00
<u>Less payments</u>	= \$ 40.00
<u>Balance Due NASD Regulation, Inc.</u>	= \$ 1,460.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

Benjamin A. Kerner, Esq.
Public Arbitrator, Presiding Chair

Signature Date

William D. Keller
Public Arbitrator

Signature Date


Kenneth Rochlen
Industry Arbitrator

9/12/00
Signature Date

Date of Service (For NASD office use only)

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration # 99-2409
Award Page 4 of 4

Fee Summary

Claimants, and Philip DeLuca and C. Dean Bityk, be and hereby are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Total Fees</u>	= \$ 175.00
<u>Less payments</u>	= \$ 175.00
<u>Balance Due NASD Regulation, Inc.</u>	= \$ 0.00

Claimant, Philip DeLuca, be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$ 750.00
<u>Less payments</u>	= \$ 750.00
<u>Balance Due NASD Regulation, Inc.</u>	= \$ 0.00

Claimant, C. Dean Bityk, be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 750.00
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<u>Balance Due NASD Regulation, Inc.</u>	= \$ 400.00

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Concurring Arbitrators' Signatures



Benjamin A. Kerner, Esq.
Public Arbitrator, Presiding Chair

Sept. 12, 00
Signature Date

William D. Keller
Public Arbitrator

Signature Date

Kenneth Rochlen
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

Fee Summary

Claimants, and Philip DeLuca and C. Dean Bityk, be and hereby are jointly and severally liable for: RECEIVED
NATIONAL ASSOCIATION
OF SECURITIES DEALERS
SEP 12 2000

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Total Fees</u>	= \$ 175.00
<u>Less payments</u>	= \$ 175.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Claimant, Philip DeLuca, be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$ 750.00
<u>Less payments</u>	= \$ 750.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

Claimant, C. Dean Bityk, be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 750.00
<u>Total Fees</u>	= \$ 750.00
<u>Less payments</u>	= \$ 350.00
Balance Due NASD Regulation, Inc.	= \$ 400.00

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Signature Date

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