

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Timothy Lucarelli, (Claimant) v. Peregrine Financials & Securities, Inc. and Peregrine Financial Group, Inc., (Respondents)

Case Number: 01-00296

Hearing Site: Chicago, Illinois

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**REPRESENTATION OF PARTIES**

Claimant Timothy Lucarelli ("Lucarelli") was *pro se*.

Respondent Peregrine Financials & Securities, Inc. ("Peregrine") and Peregrine Financial Group, Inc. ("Peregrine Group"): Rebecca J. Wing and Wendy Sheinkoff, Legal Department of Peregrine Financials & Securities, Inc. located in Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: January 19, 2001

Claimant's Reply to Peregrine's Answer filed on or about: May 05, 2001

Claimant Lucarelli signed the Uniform Submission Agreement: January 18, 2001

Respondent Peregrine signed the Uniform Submission Agreement: March 20, 2001

Motion to Strike and Dismiss and in the Alternative Statement of Answer filed by Respondent Peregrine on or about: March 29, 2001

Claimant's Response to Motion to Strike and Dismiss and in the Alternative Statement of Answer filed by Respondent Peregrine on or about: April 17, 2001

Claimant's Motion to Have Peregrine and Peregrine Group Considered One Company "For This Case Only" filed on or about: November 28, 2001

Respondent Peregrine's Response to Claimant's Motion to Have Peregrine and Peregrine Group Considered One Company "For This Case Only" filed on or about: January 07, 2002

Respondent Peregrine's Supplement to its Response to Claimant's Motion to Have Peregrine and Peregrine Group Considered One Company "For This Case Only" filed on or about: January 07, 2002

Respondent' Peregrine's Renewed Motion to Strike and Dismiss filed on or about:  
January 17, 2002

Respondent Peregrine's Supplemental Submission to Renewed Motion to Strike and  
Dismiss filed on or about: January 17, 2002

Claimant's Response to Peregrine's Renewed Motion to Strike and Dismiss filed on or  
about: January 22, 2002

Claimant's Motion to Deem Claimant an Employee filed on or about: November 28,  
2001

Respondent Peregrine's Response to Claimant's Motion to Deem Claimant an Employee  
filed on or about: November 26, 2001

### **CASE SUMMARY**

Claimant Timothy Lucarelli asserted the following causes of action: Breach of contract,  
Failure to Pay Commissions, Libel or Slander on Form U-5, and Wrongful Termination.

Unless specifically admitted in its Answer, Respondent Peregrine Financials & Securities,  
Inc. denied the allegations made in the Statement of Claim and asserted the following  
defenses: Failure to state a claim or a cause of action upon which relief can be granted;  
Waiver; Laches; and Estoppel.

### **RELIEF REQUESTED**

Claimant Timothy Lucarelli requested:

Compensatory Damages	\$ 22,630.15
Punitive Damages	\$114,640.00
Interest	unspecified
Other Costs	\$ 3,175.00
Other Monetary/Non-Monetary Relief if any:	

Respondent Peregrine Financials & Securities, Inc. requested:

Attorneys' Fees	unspecified
Other Costs	\$ 4,600.00
Other Monetary/Non-Monetary Relief if any:	Dismissal

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Peregrine Financial Group, Inc. is not an NASD member firm.  
Claimant Timothy Lucarelli and Peregrine Financial Group, Inc. did not have a  
pre-dispute arbitration agreement. Consequently, NASD Dispute Resolution  
requires that it voluntarily submit to arbitration. Respondent Peregrine Financial  
Group, Inc. declined voluntary submission to arbitration in the NASD Dispute

Resolution forum. For this reason no award can be rendered as to ruling can be made as to this respondent.

After considering the Respondent Peregrine's Motion to Strike and Dismiss and Responses, the panel denied the motion.

After considering Claimant's Motion to Have Peregrine and Peregrine Group Considered One Company "For This Case Only," the panel denied the motion due to lack of jurisdiction over Peregrine Financial Group.

After considering Respondent Peregrine's Renewed Motion to Strike and Dismiss, Responses and Supplements, the panel reserved ruling until the of hearing. During the hearing the panel granted the Motion to Strike and all allegations made by Claimant against Peregrine Financial Group were stricken.

After considering Claimant's Motion to Deem Claimant an Employee, Responses, and Supplements the panel reserved ruling until the hearing. During the hearing the panel granted the motion.

### **AWARD**

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

1. Any and all claims asserted by Claimant Timothy Lucarelli against Respondent Peregrine Financials and Securities, Inc. are denied in their entirety.
2. Parties shall bear their own costs, including attorney's fees.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$300.00
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#### **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 events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$2,500.00</u>
Total Member Fees	= \$4,600.00

#### **Forum Fees and Assessments**

The panel has the authority to assess 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:

One (1) Pre-hearing session(s) with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: October 31, 2001	1 session
Five (5) Hearing sessions x \$1,125.00	= \$5,625.00
Hearing Dates: January 28, 2002	2 sessions
January 29, 2002	2 sessions
January 30, 2002	1 session
<u>Total Forum Fees</u>	<u>= \$6,750.00</u>

The panel has assessed \$6,750.00 of the forum fees to Respondent Peregrine Financials & Securities, Inc.

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Claimant requested copies of exhibits: \$50.00.
2. Respondent requested copies of exhibits: \$50.00.

#### **Fee Summary**

1. Claimant Timothy Lucarelli solely liable for:	
Initial Filing Fee	= \$ 300.00
<u>Administrative Costs</u>	<u>= \$ 50.00</u>
Total Fees	= \$ 350.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,075.00

2. Respondent Peregrine Financials & Securities, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 6,750.00
<u>Administrative Costs</u>	= \$ 50.00
Total Fees	= \$11,400.00
<u>Less payments</u>	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 6,800.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

John N. Chapin, Jr.	-	Public Arbitrator, Presiding Chair
Joseph O. Kostner, Esq.	-	Public Arbitrator
John D. Diefenbach	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ John N. Chapin	02/08/02
_____ John N. Chapin, Jr. Public Arbitrator, Presiding Chair	_____ Signature Date
/s/ Joseph O. Kostner	02/08/02
_____ Joseph O. Kostner, Esq. Public Arbitrator	_____ Signature Date
/s/ John D. Diefenbach	02/07/02
_____ John D. Diefenbach Non-Public Arbitrator	_____ Signature Date
02/14/02	

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Date of Service (For NASD-Dispute Resolution office use only)

NASD Dispute Resolution, Inc.  
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2. Respondent Peregrine Financials & Securities, Inc. is solely liable for:

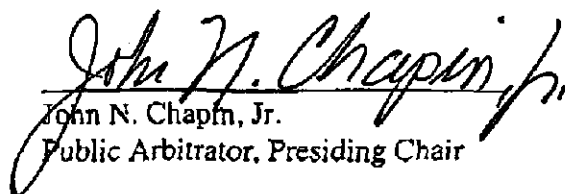
Member Fees	= \$ 4,600.00
Forum Fees	= \$ 5,750.00
Administrative Costs	= \$ 50.00
Total Fees	= \$10,400.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,800.00

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Signature Date

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Joseph O. Kostner, Esq.  
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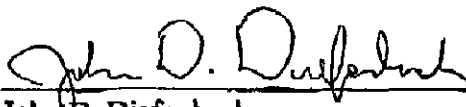
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Joseph O. Kostner, Esq.  
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John D. Diefenbach  
Non-Public Arbitrator

2/7/02  
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Signature Date

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