

NASD REGULATION, INC.  
AWARD

---

In the Matter of the Arbitration Between

Name of Claimant

Prime Charter LTD

96-05329

Name of Respondent

James D. Ritter

---

**REPRESENTATION**

For Claimant Prime Charter LTD ("Claimant") appeared David N. Mahler, Esq., in-house counsel for Claimant located in New York, New York.

For Respondent James D. Ritter ("Respondent") appeared Richard DeVita, Esq., a sole practitioner with offices in Hoboken, New Jersey.

**CASE INFORMATION**

Claimant's Statement of Claim was filed on December 19, 1995.

Claimant's Answer to the Counterclaim was filed on March 14, 1997.

Claimant's Submission Agreement was signed on December 18, 1995.

Respondent's Statement of Answer and Counterclaim was filed on February 20, 1997.

Respondent's Amended Statement of Answer and Counterclaim was filed on May 16, 1997.

Respondent's Submission Agreement was signed on February 22, 1997.

**HEARING INFORMATION**

Hearing Dates/Sessions:	March 31, 1998	Two Sessions
	April 2, 1998	Two Sessions
	May 8, 1998	Two Sessions
	May 14, 1998	One Session

The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

## **CASE SUMMARY**

Claimant alleged that, during his employment with it, Respondent borrowed the sum of \$20,000.00. Claimant contended that, on October 21, 1994, Respondent signed a non-negotiable promissory note which stipulated the interest rate on the loan to be seven percent per annum. Claimant maintained that, on June 23, 1995 when Respondent's employment terminated, the balance of the note (\$14,092.85) became immediately due and payable.

Respondent maintained he was employed by Claimant from October 1994 until June 1995, when he was wrongfully terminated. Respondent maintained that the hiring package offered by Claimant was to include a \$5,000.00 up-front signing bonus, a \$20,000.00 note, and 5,000 rights to common stock of Claimant. Respondent asserted that during his employment with Claimant he began to follow up on a possible relationship with Tracker USA ("Tracker"). Respondent further alleged that Gregory Johnson ("Johnson"), an employee of Tracker, attempted to get him to disseminate false and misleading information about Tracker in order to manipulate the price of the stock. Respondent asserted that he then tape recorded his subsequent conversations with Johnson and turned them over to Tracker's Board of Directors. Respondent alleged that before he could explain his actions to Claimant, Johnson contacted Claimant and accused him of illegally recording conversations and committing a felony. Respondent further alleged that based on those accusations and without verification, Claimant wrongfully terminated his employment.

In his Counterclaim, Respondent alleged that Claimant tortiously interfered with his present and prospective customer and employment relationships, removed and kept his personal belongings, breached their contract, improperly accelerated repayment of the note, and failed to give to him the 5,000 stock rights as promised.

Claimant denied all allegations contained in the Counterclaim.

## **RELIEF REQUESTED**

Claimant requested actual damages in the amount of \$14,092.85, plus interest, costs, expenses and disbursements.

In his Amended Statement of Answer and Counterclaim respondent requested:

- (a) The denial of claimant's assertions and demands in their entirety;
- (b) Compensatory damages in the amount of \$250,000.00;
- (c) The return of all of his personal property which was confiscated by Claimant;
- (d) The return of stock appreciation rights withheld by Claimant after its wrongful termination of him;
- (e) Attorneys' fees, costs, and fees;
- (f) Punitive damages;
- (g) An order that prohibits Claimant from contacting Respondent's clients and from slandering him to those clients;
- (h) Referral of Claimant to the NASD's Enforcement Division; and
- (i) Any other relief that the panel deems appropriate.

Claimant requested that the Counterclaim be dismissed in its entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

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 originals remain on file with NASD Regulation, Inc.

NASD Regulation Inc. administratively waived the non-refundable filing fee which claimant was required to submit pursuant to Rule 10205 of the NASD Code of Arbitration Procedure ("Code").

### **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 be and hereby is liable for and shall pay to Claimant compensatory damages in the amount of **SEVENTEEN THOUSAND FIFTY FIVE DOLLARS AND TWENTY NINE CENTS (\$17,055.29)**.
2. Claimants' requests for interest, costs, expenses and disbursements are hereby denied.
3. Respondent's Counterclaim is hereby dismissed in its entirety.
3. All other requests are hereby denied.

### **OTHER COSTS**

Pursuant to Rule 10333 of the Code, Claimant shall pay to NASD Regulation, Inc. the \$200.00 past due member surcharge previously invoiced.

### **FORUM FEES**

Pursuant to Rule 10205(c) of the Code, the arbitrators have determined that NASD Regulation Inc. will retain the \$500.00 non-refundable counter-claim filing fee submitted by Respondent and have assessed the following Forum Fees:

7 Hearing sessions x \$600.00 = \$4,200.00

1. Claimant be and hereby is liable for and shall pay the sum of \$2,100.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation, Inc. and, therefore, shall pay the balance of \$1,500.00.
2. Respondent be and hereby is liable for the sum of \$2,100.00 representing one-half of the total amount of forum fees assessed. Respondent previously deposited


\$850.00 with NASD Regulation, Inc. and, therefore, shall pay the balance of \$1,250.00.

Fees are payable to NASD Regulation, Inc.

**ARBITRATION PANEL**

David M. Kaplan, Esq.	-	Public Chairperson
Dorothy F. Gray, Esq.	-	Public Arbitrator
Eva H. Posman, Esq.	-	Industry Arbitrator

**CONCURRING ARBITRATORS' SIGNATURE**

  
\_\_\_\_\_  
Eva H. Posman, Esq.  
Industry Arbitrator

Date of Decision: June 12, 1998

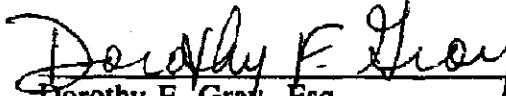
I, Eva H. Posman, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
\_\_\_\_\_  
Eva H. Posman, Esq.

**ARBITRATION PANEL**


David M. Kaplan, Esq.	-	Public Chairperson
Dorothy F. Gray, Esq.	-	Public Arbitrator
Eva H. Posman, Esq.	-	Industry Arbitrator

**CONCURRING ARBITRATORS' SIGNATURE**

  
\_\_\_\_\_  
Dorothy F. Gray, Esq.  
Public Arbitrator

Date of Decision: June 12, 1998

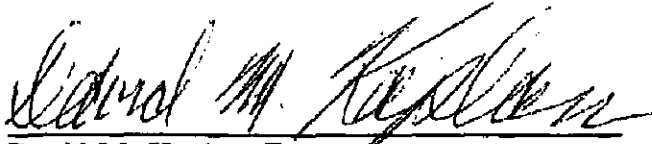
I, Dorothy F. Gray, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
\_\_\_\_\_  
Dorothy F. Gray, Esq.

**ARBITRATION PANEL**

David M. Kaplan, Esq.	-	Public Chairperson
Dorothy F. Gray, Esq.	-	Public Arbitrator
Eva H. Posman, Esq.	-	Industry Arbitrator

**CONCURRING ARBITRATORS' SIGNATURE**



David M. Kaplan, Esq.  
Chairperson - Public Arbitrator

Date of Decision: June 12, 1998

I, David M. Kaplan, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



David M. Kaplan, Esq.