

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Nathan M. Plumb

Case Number: 23-00477

vs.

Respondents
Betty J. Custer a/k/a Betty Harris Custer and
James C. Custer

Hearing Site: Milwaukee, Wisconsin

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Associated Persons

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Nathan M. Plumb (“Claimant”): Jonathan W. Hackbarth, Esq., Hannah Schwartz, Esq., and Patrick Proctor-Brown, Esq., Quarles & Brady, LLP, Milwaukee, Wisconsin, and Emily Feinstein, Esq. and Ryan Rainey, Esq., Quarles & Brady, LLP, Madison, Wisconsin.

For Respondents Betty J. Custer a/k/a Betty Harris Custer and James C. Custer (collectively, “Respondents”): Lester A. Pines, Esq., Joshua J. Kindkeppel, Esq., and Samantha Foran, Esq., Pines Bach LLP, Madison, Wisconsin.

CASE INFORMATION

Statement of Claim filed on or about: February 24, 2023.

Claimant signed the Submission Agreement: February 24, 2023.

Statement of Answer filed by Respondents on or about: April 17, 2023.

Amended Statement of Answer filed by Respondents on or about: May 15, 2023.

Respondents signed the Submission Agreements: April 17, 2023.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract, unjust enrichment, breach of the duty of good faith and fair dealing, and tortious interference with contract. The causes of action related to Claimant’s allegation that Respondents reneged on a contract to transfer their business to Claimant, without returning any of Claimant’s money.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested damages, in an amount to be determined by the Panel, and not less than \$1,500,000.00; pre- and post-award interest; cost and fees as provided by law; and such other and further relief as is just and proper.

In the Statement of Answer, Respondents requested an award dismissing Claimant's claims with prejudice; awarding Respondents the costs and fees of this arbitration as provided by law, including reasonable attorneys' fees; and such other relief as the Arbitrators may deem just and proper.

At the hearing, Claimant requested damages of \$6,806,000.00 or \$3,634,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

AWARD

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

1. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$2,400,000.00 in compensatory damages.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee	= \$ 2,025.00
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**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as Respondents' firm, Lincoln Financial Advisors Corporation is assessed the following:

Member Surcharge	= \$	3,200.00
Member Process Fee	= \$	6,375.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

December 11-14, 2023, postponement requested by Claimant	= \$	1,435.00
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Total Postponement Fees	= \$	1,435.00

The Panel has assessed \$717.50 of the postponement fees to Claimant.

The Panel has assessed \$717.50 of the postponement fees jointly and severally to Respondents.

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	200.00
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Claimant submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$	200.00

The Panel has assessed the total discovery-related motion fees jointly and severally to Respondents.

Hearing Session Fees and Assessments

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

Two (2) pre-hearing sessions with the Panel @ \$1,435.00/session	= \$	2,870.00
Pre-Hearing Conferences: June 29, 2023	1 session	
November 13, 2023	1 session	
Seven (7) hearing sessions @ \$1,435.00/session	= \$	10,045.00
Hearings: May 28, 2024	2 sessions	
May 29, 2024	2 sessions	
May 30, 2024	2 sessions	
May 31, 2024	1 session	

Total Hearing Session Fees = \$ 12,915.00

The Panel has assessed \$1,435.00 of the hearing session fees to Claimant.

The Panel has assessed \$11,480.00 of the hearing session fees jointly and severally to Respondents.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Michael S. Jordan	-	Public Arbitrator, Presiding Chairperson
Matthew Fisher	-	Public Arbitrator
David J. Hase	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Michael S. Jordan

Michael S. Jordan
Public Arbitrator, Presiding Chairperson

06/04/2024

Signature Date

Matthew Fisher

Matthew Fisher
Public Arbitrator

06/04/2024

Signature Date

David J. Hase

David J. Hase
Non-Public Arbitrator

06/04/2024

Signature Date

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June 04, 2024

Date of Service (For FINRA Dispute Resolution Services use only)