

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant

Iqbal Lakh, as general partner on behalf of Lakh Enterprises, LLC

Case Number: 23-03056

vs.

Respondent

Berthel Fisher & Company Financial Services, Inc.

Hearing Site: Phoenix, Arizona

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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: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

For Claimant Iqbal Lakh, as general partner on behalf of Lakh Enterprises, LLC (“Claimant”): Jonathan Schwartz, Esq., Haselkorn & Thibaut, P.A., Juno Beach, Florida.

For Respondent Berthel Fisher & Company Financial Services, Inc. (“Respondent”): James Baehr, Esq., The Law Office of James Baehr, LLC, Metairie, Louisiana.

**CASE INFORMATION**

Statement of Claim filed on or about: October 17, 2023.

Claimant signed the Submission Agreement: October 17, 2023.

Statement of Answer filed by Respondent on or about: January 26, 2024.

Respondent did not sign the Submission Agreement.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: negligence; professional negligence; violations of law; unsuitable recommendations; negligent supervision; breach of contract; breach of fiduciary duty; and breach of securities industry rules and

regulations. The causes of action relate to Claimant's investments in NorthStar Healthcare Income REIT, Colony Capital and Cole Office and Industrial REIT, Inc., among others.

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

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. General and compensatory damages in an amount of \$170,000.00;
2. Lost opportunity costs;
3. Rescission of the improper investments;
4. Cost of proceedings;
5. Punitive damages in an amount according to proof;
6. Interest at the legal rate on all sums recovered;
7. Attorneys' fees and costs; and
8. Such other and further relief as this Panel deems just and equitable.

In the Statement of Answer, Respondent requested the Statement of Claim be dismissed in its entirety.

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

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

Respondent did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim and appeared at the hearing, is bound by the determination of the Panel on all issues submitted.

On April 28, 2024, Respondent filed a Motion to Dismiss pursuant to Rule 12206 of the Code. On May 28, 2024, Claimant filed a response opposing the Motion to Dismiss. On June 3, 2024, Respondent filed a reply in support of its Motion to Dismiss. On June 25, 2024, the Panel heard oral arguments on the Motion to Dismiss. On the same day, the Panel denied the Motion to Dismiss without prejudice.

On October 16, 2024, Respondent filed a Renewed Motion to Dismiss pursuant to Rule 12206 of the Code. On November 15, 2024, Claimant filed a response opposing the Renewed Motion to Dismiss and a cross-motion for sanctions. On November 20, 2024, Respondent filed a reply in support of its Renewed Motion to Dismiss and an opposition to Claimant's cross-motion for sanctions. On December 16, 2024, the Panel heard oral arguments on the motions. On December 17, 2024, the Panel issued an order denying Respondent's Renewed Motion to Dismiss and Claimant's cross-motion for sanctions.

On December 12, 2024, Claimant filed a motion to compel and motion for sanctions under Rules 12212 and 12511 of the Code. On December 23, 2024, Respondent filed an opposition to Claimant's motion to compel and motion for sanctions, and submitted a cross-motion to compel

and for sanctions against Claimant. On January 7, 2025, the Chairperson heard oral arguments on the motions. On the same day, the Chairperson granted Claimant's motion to compel, denied Claimant's motion for sanctions, and denied Respondent's cross-motion to compel and motion for sanctions against Claimant. The order also noted that the discovery sanctions sought by both parties will be taken under advisement.

On December 24, 2024, Claimant filed a Motion for Zoom Hearing. On December 26, 2024, Respondent filed an opposition to the Motion for Zoom Hearing. On December 30, 2024, the Panel granted the motion.

On January 14, 2025, Claimant filed a motion to amend the pleadings ("Motion to Amend") to add Mr. Lakh, individually, and his wife, Mrs. Lakh, as parties to this arbitration. On January 24, 2025, Respondent filed an opposition to the Motion to Amend. On January 29, 2025, Claimant filed a reply in support of its motion. On February 17, 2025, the Panel heard oral arguments on Claimant's Motion to Amend. On the same day, the Panel issued an order denying Claimant's Motion to Amend.

During the evidentiary hearing, after Claimant's case in chief, Respondent moved for dismissal of Claimant's claims under Rule 12206 of the Code. Claimant opposed the motion. The Panel denied the motion at the evidentiary hearing.

### **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. Respondent is liable for and shall pay to Claimant the sum of \$111,321.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 10% per annum from the date of this Award until the Award is paid in full.
3. Respondent is liable for and shall pay to Claimant the sum of \$10,000.00 as sanctions for discovery abuse.
4. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial Claim Filing Fee	= \$ 1,425.00
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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 a party, Respondent is assessed the following:

Member Surcharge	= \$	1,700.00
Member Process Fee	= \$	3,250.00

### **Postponement Fees**

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

December 10-13, 2024, postponement requested by Respondent	= \$	1,125.00
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Total Postponement Fees	= \$	1,125.00

The Panel has assessed the total postponement fees to Respondent.

### **Discovery-Related Motion Fees**

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

Two (2) decisions on discovery-related motions on the papers with one (1) Arbitrator @ \$200.00/decision	= \$	400.00
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Claimant submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees	= \$	400.00
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The Panel has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$300.00 of the discovery-related motion fees to Respondent.

### **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 a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conferences: September 13, 2024	1 session	
January 7, 2025	1 session	
Six (6) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	6,750.00
Pre-Hearing Conferences: February 22, 2024	1 session	
May 24, 2024	1 session	
June, 25, 2024	1 session	
December 16, 2024	1 session	
February 17, 2025	1 session	
March 7, 2025	1 session	

Sixteen (16) hearing sessions @ \$1,125.00/session	= \$	18,000.00
Hearings:		
January 14, 2025	2 sessions	
January 15, 2025	2 sessions	
January 16, 2025	3 sessions	
January 17, 2025	2 sessions	
March 17, 2025	3 sessions	
March 18, 2025	3 sessions	
March 19, 2025	1 session	

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Total Hearing Session Fees	= \$	25,650.00
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The Panel has assessed \$2,700.00 of the hearing session fees to Claimant.

The Panel has assessed \$22,950.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Donald Dreyfus	-	Public Arbitrator, Presiding Chairperson
Timothy J. Kroll	-	Public Arbitrator
Jerome Allan Landau	-	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**

**Donald Dreyfus**

Donald Dreyfus  
Public Arbitrator, Presiding Chairperson

**05/29/2025**

Signature Date

**Timothy J. Kroll**

Timothy J. Kroll  
Public Arbitrator

**05/28/2025**

Signature Date

**Jerome Allan Landau**

Jerome Allan Landau  
Public Arbitrator

**05/28/2025**

Signature Date

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May 29, 2025

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