

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

GRACE LLM, LLC d/b/a GRACE
RESTAURANT,

Plaintiff,

v.

CURTIES DUFFY and MICHAEL MUSER,

Defendants.

Case No:

COMPLAINT

NOW COMES Plaintiff, GRACE MMC, LLC (“Grace LLC”), by and through its attorneys, JOHNSON & BELL, LTD., and for its Complaint against Defendants, CURTIS DUFFY (“Duffy”) and MICHAEL MUSER (“Muser”) (collectively, “Defendants”) and states as follows:

NATURE OF THE CASE

1. This is an action brought by Grace LLC against its former executive chef (Duffy) and sommelier (Muser) to hold them accountable for their theft and breaches of fiduciary duties owed to Grace LLC. For years, Duffy and Muser worked unauthorized events outside their employment with Grace LLC, impermissibly ordered and shipped food on Grace LLC’s accounts for these events, and then pocketed the money they received for these events without ever compensating Grace LLC. In addition, Duffy and Muser later hatched a scheme to solicit Grace LLC’s employees to leave Grace LLC without any staff and thereby force its temporary closure causing severe damage to its business and economic expectancies. This lawsuit is filed to compensate Grace LLC for the damages and harm it has endured because of Duffy and Muser’s egregious misconduct.

PARTIES

2. Grace LLC is an Illinois Limited Liability Company which is wholly owned by its sole member and sole manager Michael Olszewski. Its registered place of business is 652 W. Randolph Street, Chicago, IL 60661. Grace LLC is sole owner, operator, and financier of its d/b/a, Grace Restaurant.

3. Duffy is an individual and resident of the State of Illinois. Duffy signed an exclusive Employment Agreement to be the executive chef of Grace Restaurant in December 2011—re-executed in December 2012. *See* Exhibit A. Duffy resigned as Grace Restaurant’s executive chef on December 19, 2017 without giving any notice to Grace LLC. He simply stopped showing up for work on that date.

4. Muser is an individual and resident of the State of Illinois. Muser signed an exclusive Employment Agreement to be the general manager and sommelier of Grace Restaurant in December 2011, which he re-executed in December 2012. *See* Exhibit B. Grace LLC terminated Muser’s employment, for cause, on or around December 1, 2017.

COMMON ALLEGATIONS

Background and Formation of Grace MMC, LLC and the Opening of Grace Restaurant

5. Approximately nine years ago, Michael Olszewski and his wife dined at “Avenues,” a fine-dining restaurant at the Peninsula Hotel. At that time, Duffy was the executive chef there and Muser was the wine and beverage director.

6. Olszewski returned for subsequent visits and eventually asked Duffy and Muser to cook privately at his home. Duffy and Muser agreed to do so, and when they did, Duffy and Muser informed Olszewski that they wanted to leave “Avenues” and open up a new fine-dining restaurant in Chicago. However, they needed financing for the project.

7. After some negotiation, Olszewski agreed to finance Duffy and Muser's new restaurant and formed Grace LLC to finance, open, and operate what would become Grace Restaurant. Grace LLC invested almost \$3 million before into Grace Restaurant even opened for food service to the public; however, Duffy and Muser did not invest any capital contributions—or any other funds—into Grace LLC or its d/b/a, Grace Restaurant.

8. In addition to financing the entire project, Grace LLC lent considerable business expertise and acumen to the enterprise. Prior to the endeavor, Duffy had worked solely as a chef and had no financial experience running a business. Muser had worked solely as a sommelier and likewise had no financial experience running a business.

9. Indeed, soon after its formation, Grace LLC took over all financial aspects for opening and operating Grace Restaurant including, but not limited to, negotiations with all vendors, payroll, banking, negotiation of the lease for the premises of the restaurant at 652 West Randolph Street in Chicago (the "Premises"), construction, renovation, maintenance, and repairs to the Premises, equipment and improvements to the Premises, filing and paying all required taxes, acquiring all necessary business and liquor licenses, as well as creating and setting up all the financial policies and procedures for the operation of Grace Restaurant.

10. Duffy and Muser had no experience or interest in and were completely incapable of handling any of these matters.

Grace Restaurant Opens to Critical Acclaim and Sustained Success

11. After Grace Restaurant opened for food service to the public in December 2012, it was a huge success, and continued its success as one of the premier fine-dining restaurants in the world until the respective termination of Respondents' Employment Agreements in December 2017.

12. In 2014, its first year of eligibility for the Michelin Guide's prestigious rankings of fine-dining restaurants worldwide, Grace Restaurant was one of only four restaurants in Chicago to earn a Michelin two-star rating, while only one restaurant in Chicago earned a coveted Michelin three-star rating. In 2015, 2016, and 2017, Grace was awarded a Michelin three-star rating, one of only two restaurants in Chicago to hold this honor and one of only twelve restaurants in the entire United States to hold the distinction during this time period.

13. Grace LLC was so pleased with the immediate and sustained success of Grace Restaurant that it rewarded Duffy's and Muser's efforts and increased their pay from \$90,000 to \$160,000 per year, even though both were under contract at \$90,000 a year for the foreseeable future.

14. Additionally, pursuant to their Employment Agreements, Duffy and Muser would both each eventually be entitled to revenue sharing in Grace (1/3 to each of them) after Grace Restaurant had been operating for five years.

Issues Arise with Duffy's and Muser's Work Performance

15. Unfortunately, issues with both Duffy's and Muser's work began to arise approximately three and half years ago when Respondents expressed displeasure with their increased compensation and lack an ownership stake in Grace LCC d/b/a Grace Restaurant, despite their competitive salaries and the prospect of them each receiving one-third of Grace Restaurant's revenue after five years, pursuant to their respective Employment Agreements.

16. Soon thereafter, Duffy's and Muser's work performance began to deteriorate. Their unexcused absenteeism became a chronic issue, which became a problem for customers who were paying top-dollar for a world-class fine-dining experience and expecting that the world famous chef and sommelier would be providing them with that experience.

17. For example, Grace Restaurant is closed during the first week of January and the first week of July every year. After the July break in 2016 concluded, Muser failed to report back to work for ten days after without notice, until he finally called and informed Grace LLC that he was riding his motorcycle in North Dakota. Muser claimed to be in California for two weeks after the January break 2017 tending to an ill family member when, in fact, he was on vacation in Hawaii. Neither of these absences were excused.

18. Likewise, Duffy seemed to come to go as he pleased, and was absent from dinner services with increasing frequency.

19. Further, in April 2017, a report was filed with the city health inspector by two Grace Restaurant patrons who complained of food poisoning following their visits to Grace Restaurant. These complaints initiated an inspection by Chicago Department of Public Health in May 2017 which found several infractions, including improper washing of utensils in a designated hand sink and improperly using vacuum packaging machine without a license.

20. While these infractions might seem insignificant, Michelin Guide three-star fine-dining restaurants are rightfully held to the highest standards by critics and the public. An inspection noting these deficiencies could therefore be disastrous for Grace Restaurant's reputation and bottom-line if the inspection somehow was became well-publicized. As such, Grace LLC immediately confronted Duffy and Muser about these issues and inquired how a meal prepared by them could cause a guest to suffer from food poisoning and how their kitchen could suffer the deficiencies noted by the Department of Public Health. Neither Duffy nor Muser could provide a satisfactory answer and they continued their chronic absenteeism anyways.

21. In addition to absenteeism issues, as discussed in more detail below, around this time, significant, unexplained charges on the company credit card began to appear.

The Termination of Duffy's and Muser's Employment with Grace LLC

22. Rather than address the issues Grace was facing as set forth above, Duffy resigned his position on May 22, 2017. Though difficult to lose Duffy at that time, Grace managed to carry on. During this time, Grace LLC learned that Duffy was working private dinner events outside of the geographical scope of his Non-Compete Provision in his Employment Agreement. For example, he worked an event in Singapore from June 30, 2017 to July 2, 2017. *See* Event Webpage, attached as Exhibit D. As discussed above, Duffy is a world renowned chef and can find work virtually anywhere in the world outside of the six Illinois counties covered by Non-Compete Provision in his Employment Agreement.

23. Unbeknownst to Grace LLC and without its approval, after Duffy resigned in May 2017, he continued to represent himself as Grace Restaurant's executive chef and even brazenly took Grace Restaurant's staff with him to the Singapore event, including Muser, Troy George, Justin Selk, Matt Denko, and/or David Connell. Duffy even represented himself as being Grace's executive chef at the Singapore event despite the fact that he no longer worked at Grace.

24. Around this time, some of the more significant, suspicious financial transactions referenced above appeared on Grace Restaurant's ledger. For example, Grace's wagyu beef orders spiked significantly from May 2017 to September 2017 and could not be reconciled with the number of guests served at Grace Restaurant during this time period.

25. From its inception, Grace typically averaged one to two ounces of wagyu beef per guest. Grace orders its wagyu beef from YPM, LLC ("YPM"). For the month of June 2017, Grace ordered 241.7 lbs. of beef from YPM totaling \$13,051.80. Grace served wagyu beef to 727 guests in the month of June 2017. This equates to 5.3 ounces per guest.

26. For the month of July 2017, Grace ordered 138.3 lbs. of wagyu beef from YPM totaling \$7,468.20. Grace served wagyu beef to 357 guests in the month of July 2017. This equates to 6.2 ounces per guest.

27. In particular, large orders of wagyu beef on Grace's account with YPM were placed the last week of June 2017 (69.20 lbs. totaling \$3,736.80) and first week of July 2017 (45.70 lbs. totaling \$2,467.80) when Duffy was hosting the above-referenced private dining event in Singapore.

28. Additionally, larger than usual amounts of produce were likewise being ordered around this time.

29. In September 2017, Duffy asked Grace LLC if he could resume his employment as the executive chef of Grace Restaurant, pursuant to the terms of his Employment Agreement. Due to his notoriety and the positive effect his presence for dinner services in the restaurant would have on Grace LLC's bottom line, Grace LLC granted his request and agreed to reinstate his employment pursuant to the terms of his Employment Agreement.

30. However, many of the issues discussed above persisted.

31. Additionally, unbeknownst to Grace LLC at the time, Duffy also began to work unauthorized events outside of Grace Restaurant's dinner services and outside the state of Illinois using food purchased with Grace's accounts and shipped to various locations without Grace LLC's consent or approval. Grace LLC is now aware of unauthorized events during this time that occurred in New York, Hong Kong, Florida, and California. *See* Group Exhibit of Invoices, attached as Exhibit E. Grace was never compensated for any of these events and food was ordered on Grace's accounts for these events.

32. Sometime after Duffy's employment with Grace LLC was reinstated, Duffy and Muser approached Grace LLC about purchasing Grace LLC d/b/a Grace Restaurant. Grace LLC and Duffy/Muser even entered into a purchase agreement contingent on Respondents' financing for the agreed upon purchase price. However, Respondents were ultimately unable to come up

with the financing, which seemingly caused their work to further spiral and their chronic absenteeism to increase even more.

33. Eventually, Grace LLC had no choice, but to terminate Muser's employment in the beginning of December 2017. For his part, Duffy just stopped showing up for work around December 19, 2017, without giving notice of his resignation.

34. Moreover, apparently having learned that Grace Restaurant could continue without him when he resigned the first time in May 2017, Duffy and Muser endeavored to solicit and take most of Grace Restaurant's staff with him this time around.

35. After learning of Duffy's second resignation and the resignation of most of Grace Restaurant's staff, Grace LLC discovered that \$10,000 worth of truffles and a significant amount of produce were missing from Grace Restaurant's inventory. Further, a portion of Grace Restaurant's wine inventory and wagyu beef inventory was also missing. Grace LLC, subsequently came to learn that Duffy had taken most of Grace Restaurant's to work an extended, private fine-dining dinner event at the Mandarin Oriental Hotel in Miami, Florida at the time of his "resignation."

36. Regrettably, Duffy's actions this time left Grace Restaurant unable to provide dinner service because he had solicited and taken most of Grace's highly trained fine-dining staff with him. As such, Grace was left with no choice but to temporarily cease its dinner service operations while it worked to hire a new executive chef, general manager, and an almost entirely new staff.

37. On December 21, 2017, two days after he stopped showing up for work at Grace Restaurant, Duffy gave a media interview where he announced that he and Muser were "not going anywhere" and that they were going "to build another...restaurant in Chicago...to feed everyone that I fed at Grace." *See Make It Better Article*, available at

<http://makeitbetter.net/trending/curtis-duffy-why-he-left-grace-chicago-whats-next/>>, attached as Exhibit F.

**COUNT I – BREACH OF FIDUCIARY DUTY
(DUFFY AND MUSER)**

38. Grace re-alleges and incorporates by reference ¶¶ 1 through 37 as though fully set forth herein.

39. As employees, executives, or general managers of Grace LLC, Duffy and Muser owed fiduciary duties to Grace LLC including, *inter alia*, the duties of loyalty and good faith.

40. Duffy and Muser breached their fiduciary duties they owed to Grace LLC by, *inter alia*: (1) their repeated unexcused absences from work; (2) working unauthorized events for their own benefit using untold amounts of Grace LLC's produce, truffles, beef and wine and Grace LLC's employees; (4) falsely reporting reservations and serving Grace LLC's food and alcohol to diners without receiving payment; and (5) improperly recruiting Grace LLC's staff to leave Grace LLC resulting in its temporary closure and lost profits.

41. Grace LLC has been damaged by Duffy and Muser's breaches of their fiduciary duties because it has lost revenue, supplies, and personnel having a value that exceeds \$500,000.

42. Duffy and Muser's actions were willful and intentional and a blatant violation of the fiduciary duties they owed to Grace.

WHEREFORE, Claimant, GRACE MMC, LLC d/b/a GRACE RESTAURANT, respectfully requests that the arbitrators enter an award on this Count II in its favor and against Respondents, CURTIS DUFFY and MICHAEL MUSER, for the following:

- (i) For compensatory damages in an amount to be proven at arbitration, which Grace believes will materially exceed \$500,000;
- (ii) For punitive damages; and

(iii) For such other relief as the arbitrators deem just and proper.

**COUNT II – TORTIOUS INTERFERENCE
(DUFFY AND MUSER)**

43. Grace LLC re-alleges and incorporates by reference ¶¶ 1 through 42 as though fully set forth herein.

44. Grace LLC had every expectation that it would continue to provide goods and services to its customers and that it would continue to benefit from a productive work force and staff.

45. Indeed, many of Grace Restaurant’s customers are repeat customers whose business has been cultivated over several years and much of Grace LLC’s staff was employed since Grace Restaurant’s inception in 2012.

46. Duffy and Muser, by virtue of their intentional and wrongful acts (most notably, improperly soliciting Grace LLC’s staff) intended to and did cause harm to Grace LLC by depleting its workforce and ultimately forcing Grace Restaurant’s temporary closure for food service to the public.

47. In addition, Duffy and Muser’s frequent practice of giving away Grace LLC’s food and alcohol damaged Grace LLC’s relationships with its actual paying customers by devaluing their dining experience.

48. Duffy and Muser intentionally and maliciously interfered with Grace LLC’s relationships and business expectancies with its employees and Grace Restaurant’s customers.

49. Duffy and Muser’s actions caused Grace LLC to lose business and profits.

50. Therefore, Respondents’ actions caused Grace LLC to suffer damages in an amount exceeding \$500,000.

WHEREFORE, Claimant, GRACE MMC, LLC d/b/a GRACE RESTAURANT, respectfully requests that this Court enter judgment on this Count III in its favor and against Counter-defendants, CURTIS DUFFY and MICHAEL MUSER, for the following:

- (i) For compensatory damages in an amount to be proven at trial, which Grace believes will materially exceed \$500,000;
- (ii) For punitive damages; and
- (iii) For such other relief as the Court deems just and proper.

**COUNT III – RESTITUTION
(DUFFY AND MUSER)**

51. Grace LLC re-alleges and incorporates by reference ¶¶ 1 through 50 as though fully set forth herein.

52. Duffy and Muser have been unjustly enriched by their unlawful conduct described above.

53. As a consequence of the foregoing, Grace LLC has suffered financial loss in excess of \$500,000.

54. As a result of the willful, intentional, and malicious acts of Duffy and Muser, Grace LLC is entitled to restitution and punitive damages.

WHEREFORE, Claimant, GRACE MMC, LLC d/b/a GRACE RESTAURANT, prays for the entry of judgment on this Count V in its favor and against Respondents, CURTIS DUFFY and MICHAEL MUSER, jointly and severally, as follows:

- (i) For compensatory damages in an amount to be proven at trial, which Grace believes will materially exceed \$500,000;
- (ii) For punitive damages; and
- (iii) For such other relief as the Court deems just and proper.

Respectfully submitted,

GRACE MMC, LLC
d/b/a GRACE RESTAURANT

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