

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Credit Suisse Securities (USA) LLC

Case Number: 19-01829

vs.

Respondent
Keith P. Melanson

Hearing Site: Boston, Massachusetts

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: Member vs. Associated Person

REPRESENTATION OF PARTIES

For Claimant Credit Suisse Securities (USA) LLC (“Credit Suisse”): Aime Dempsey, Esq., Epstein Becker & Green, P.C., New York, New York.

For Respondent Keith P. Melanson (“Melanson”): Louis M. Ciavarra, Esq., Bowditch & Dewey, LLP, Worcester, Massachusetts.

CASE INFORMATION

Statement of Claim filed on or about: June 27, 2019.

Credit Suisse Securities (USA) LLC signed the Submission Agreement: June 27, 2019.

Statement of Answer filed by Respondent on or about: October 24, 2019.

Keith P. Melanson signed the Submission Agreement: August 12, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract; compensation overpayment; unjust enrichment; and failure to mediate dispute.

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 full repayment of the outstanding principal balance of \$1,651,168.97 due under the terms of the Amended Offer Letter and the Amended Note, together with accrued but unpaid interest, collection costs, and attorneys' fees calculated as of the time of actual payment; full repayment of the overpayment of compensation that was advanced to Respondent in the amount of \$1,160.00; a declaration that Respondent is not entitled to any contingent deferred awards under the Master Share Plan and related documentation; dismissal of any counterclaims and defenses Respondent submits in response to this Statement of Claim; and such other and further relief as the Arbitrator deems just and proper.

In the Statement of Answer, Respondent requested dismissal of all of Claimant's claims, with prejudice, in their entirety; an award of costs, attorneys' fees, and expenses; and any other such equitable or injunctive award that is deemed appropriate by the Arbitration Panel.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 10, 2021, Respondent and an unnamed party filed a Motion to Add an Intervenor to this arbitration. On February 22, 2021, Claimant filed an Opposition to the motion. On March 2, 2021, Respondent filed a Reply in support of the motion. By Order dated April 8, 2021, the Panel denied the Motion to Add an Intervenor to this arbitration.

The Award in this matter may be executed in counterpart copies.

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 \$1,651,168.97 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of \$269.16 per day from October 21, 2021 until the award is paid.
3. Respondent is liable for and shall pay to Claimant accrued interest in the amount of \$544,806.60.
4. Respondent is liable for and shall pay to Claimant the sum of \$100,000.00 in attorneys' fees pursuant to the terms of the promissory note.
5. Claimant's request for a declaration that Respondent is not entitled to any contingent deferred awards under the Master Share Plan and related documentation is granted.
6. Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code of Arbitration Procedure (“Code”), the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee =\$ 3,400.00

**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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Claimant Credit Suisse Securities (USA) LLC is assessed the following:

Member Surcharge =\$ 3,025.00

Member Process Fee =\$ 6,175.00

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 =\$ 400.00
with one (1) Arbitrator @ \$200.00/decision

Claimant submitted one (1) discovery-related motion
Respondent submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees =\$ 400.00

The Panel has assessed \$200.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$200.00 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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session =\$ 4,200.00

Pre-Hearing Conferences: October 28, 2019 1 session
November 30, 2020 1 session
August 23, 2021 1 session

Three (3) hearing sessions @ \$1,400.00/session =\$ 4,200.00

Hearings: October 19, 2021 2 sessions
October 20, 2021 1 session

Total Hearing Session Fees = \$ 8,400.00

The Panel has assessed \$700.00 of the hearing session fees to Claimant.

The Panel has assessed \$4,900.00 of the hearing session fees to Respondent.

The Panel waived the \$2,800.00 fees for November 30, 2020 and August 23, 2021 pre-hearing conferences.

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

ARBITRATION PANEL

Arthur J. Giacomarra	-	Public Arbitrator, Presiding Chairperson
Gene M. Bauer	-	Public Arbitrator
Brady James Hermann	-	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

Arthur J. Giacomarra

Arthur J. Giacomarra
Public Arbitrator, Presiding Chairperson

10/27/2021

Signature Date

Gene M. Bauer

Gene M. Bauer
Public Arbitrator

10/28/2021

Signature Date

Brady James Hermann

Brady James Hermann
Non-Public Arbitrator

10/28/2021

Signature Date

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October 29, 2021

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