

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Credit Suisse Securities (USA) LLC

Case Number: 20-02292

vs.

Respondent
Brendan Kammerer

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.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Credit Suisse Securities (USA) LLC: Edward M. Yennock, Esq., Epstein Becker & Green, P.C., New York, New York.

Respondent Brendan Kammerer appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: July 20, 2020.

Credit Suisse Securities (USA) LLC signed the Submission Agreement: July 15, 2020.

Brendan Kammerer did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of promissory note agreement including arrears, breach of contract, compensation overpayment, unjust enrichment, and failure to mediate.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested full repayment of the principal balance of \$156,818.61 due under the terms of the promissory note, together with accrued but unpaid interest and collection costs calculated as of the time of actual payment (amounts which

continue to increase during the pendency of this arbitration); full repayment of the loan arrears balance of \$1,429.02, together with accrued but unpaid interest and collection costs calculated as of the time of actual payment (amounts which continue to increase during the pendency of this arbitration); full repayment of the overpayment of compensation that was advanced to Respondent in the amount of \$794.52; a declaration that Respondent is not entitled to any contingent deferred awards under the Credit Suisse Group AG Master Share Plan and related documentation, whether under a legal theory of constructive termination or otherwise; dismissal of any counterclaims and defenses that Respondent submits in response to the Statement of Claim; and such other and further relief as deemed just and proper.

At the hearing, Claimant withdrew the request for repayment of overpayment compensation in the amount of \$794.52 and added a request for attorneys' fees and costs for a total amount of \$212,112.00.

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 appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On January 26, 2021, Claimant filed a Motion to proceed with Virtual Hearings on March 15-19, 2021, to which no response was filed. By Order dated January 29, 2021, the Panel granted Claimant's Motion to proceed with Virtual Hearings on March 15-19, 2021.

On February 22, 2021, Claimant filed a Motion to Bar Defenses, to which no response was filed. By Order dated March 8, 2021, the Panel granted Claimant's Motion to Bar Defenses pursuant to Rule 13308(a) of the Code.

On February 26, 2021, Respondent filed a Motion to Postpone the virtual hearings scheduled for March 15-19, 2021. On March 8, 2021, Claimant filed an Opposition to Respondent's Motion to Postpone the March 15-19, 2021 hearings. By Order dated March 9, 2021, the Panel granted Respondent's Motion to Postpone the March 15-19, 2021 hearings but denied Respondent's request to postpone the March 15, 2021 hearing date.

On March 11, 2021, Respondent filed a Motion to Postpone the March 15, 2021 virtual hearing. On March 11, 2021, Claimant filed a Response to Respondent's Motion to Postpone the March 15, 2021 hearing. By Order dated March 12, 2021, the Panel granted Respondent's Motion to Postpone the March 15, 2021 hearing date and ordered that a telephonic pre-hearing conference call be held on March 15, 2021, at 9:00 AM Eastern Standard Time, for the parties and the arbitrators to reschedule the hearing dates.

A telephonic pre-hearing conference was held on March 15, 2021 for the parties and the arbitrators to reschedule the hearing dates. By Order dated March 15, 2021, the Panel ordered that hearings in this matter be scheduled via Zoom videoconference on May 17, 2021, at 9:00 AM Eastern Standard Time, with additional hearing dates scheduled for May 18, 19, 20 and 21, 2021.

On May 12, 2021, Respondent filed a Motion to Postpone the May 17-21, 2021 virtual hearings. On May 13, 2021, Claimant filed an Opposition to Respondent's Motion to Postpone the May 17-21, 2021 hearings. On May 14, 2021, Respondent filed a Reply in further support of his Motion to Postpone the May 17-21, 2021 hearings. By Order dated May 14, 2021, the Panel partially granted Respondent's Motion to Postpone the May 17-19, 2021 virtual hearings. The Panel adjourned the May 17, 18, and 19, 2021 hearing dates and ordered that the virtual hearing commence on May 20, 2021, at 9:00 AM Eastern Standard Time. The Panel further ordered that if Respondent is to request to postpone the hearing beyond May 19, 2021, he is to provide the Panel with additional documentation providing an explanation with sufficient detail as to why he is unable to attend and participate in a virtual hearing.

On May 17, 2021, Respondent filed a Motion to Postpone the May 20-21, 2021 virtual hearings. By Order dated May 19, 2021, the Panel denied Respondent's Motion to Postpone. The Panel again stated that Respondent is to provide the Panel with additional documentation providing an explanation in sufficient detail as to why he is unable to attend and participate in a virtual Zoom hearing if there is a request to postpone the hearing beyond May 19, 2021.

At the hearing, Respondent once again requested that hearing in this matter be postponed. The Panel denied Respondent's request as he failed to provide the Panel with additional documentation providing an explanation in sufficient detail as to why he is unable to attend and participate in a virtual Zoom hearing as ordered by the Panel on May 14, 2021 and May 19, 2021.

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

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. Respondent is liable for and shall pay to Claimant the sum of \$184,451.70 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the rate of 9% per annum from May 21, 2021 through and including full payment of the Award.
3. Respondent is liable for and shall pay to Claimant the sum of \$115,548.30 in attorneys' fees pursuant to the loan agreement.
4. The Panel has determined that Respondent is not entitled to any contingent deferred awards for \$63,000.00, or any other amounts, based on the "Onboarding Agreement."
5. 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 = \$ 2,125.00

**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 events giving rise to the dispute. Accordingly, as a party Claimant Credit Suisse Securities (USA) LLC is assessed the following:

Member Surcharge = \$ 1,700.00

Member Process Fee = \$ 3,250.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

November 10, 2020, cancellation requested by Respondent = \$ 300.00

Total Late Pre-Hearing Cancellation Fees = \$ 300.00

The Panel has assessed the total late pre-hearing cancellation fees to Respondent.

Postponement Fees

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

March 15, 2021 postponement requested by Respondent = \$ 1,125.00

March 16-19, 2021, postponement requested by Respondent = \$ 1,125.00

May 17-19, 2021, postponement requested by Respondent = \$ 1,125.00

Total Postponement Fees = \$ 3,375.00

The Panel has assessed the total postponement fees to Respondent.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

March 15, 2021, cancellation requested by Respondent = waived

May 17-19, 2021, cancellation requested by Respondent = \$ 1,800.00

Total Last-Minute Cancellation Fees = \$ 1,800.00

The Panel has assessed the total last-minute cancellation 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:

Two (2) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	2,250.00
Pre-Hearing Conferences: November 12, 2020	1 session	
March 15, 2021	1 session	
One (1) hearing session @ \$1,125.00/session	= \$	1,125.00
Hearing: May 20, 2021	1 session	
<hr/>		
Total Hearing Session Fees	= \$	3,375.00

The Panel has assessed \$562.50 of the hearing session fees to Claimant.

The Panel has assessed \$2,812.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Arthur J. Giacomarra	-	Public Arbitrator, Presiding Chairperson
Janice Wilson Allegretto	-	Public Arbitrator
James A. Wills	-	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

05/26/2021

Signature Date

Janice Wilson Allegretto

Janice Wilson Allegretto
Public Arbitrator

05/28/2021

Signature Date

James A. Wills

James A. Wills
Non-Public Arbitrator

05/26/2021

Signature Date

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.

June 01, 2021

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