FINRA Panel Slams Credit Suisse for Failing to Pay Deferred Comp to Ex-Brokers

The firm must pay $5.2 million in damages plus hefty interest payments.

By Jeff Berman | January 06, 2022

A Financial Industry Regulatory Authority arbitration panel ruled that Credit Suisse must pay a group of seven former brokers of the firm a total of $5.2 million in compensatory damages, plus interest, legal fees and other costs.

The company's ex-brokers had alleged the firm breached its obligations to them by not paying deferred compensation after Credit Suisse shut down its U.S. brokerage business in 2015.

The FINRA panel, made up of two public arbitrators and one industry arbitrator, ordered the firm to pay, in addition to the compensatory damages, 10% interest on those damages for each year since their dates of departure from Credit Suisse in 2015.

The firm must also pay $1.1 million in attorneys' fees, over $120,000 in hearing session fees, and $86,000 in other costs, according to the decision (//www.finra.org/sites/default/files/aao_documents/19-02974.pdf) that was posted on FINRA's website on Dec. 23.

The brokers were "very satisfied with the award," Barry Lax of Lax & Neville in New York, the brokers' attorney, told ThinkAdvisor on Thursday. "I think the award comes out to almost $10 million" when you factor in the interest over the past six years, he said, calling that a "tremendous component" of the award.

In November, Lax represented another group of ex-Credit Suisse brokers in a deferred compensation dispute that ended with a $9 million award for the brokers and his firm had won a combined $30 million in damages from Credit Suisse in seven deferred compensation disputes, he said.

In each of the seven cases, his firm's clients won their deferred compensation, he noted, adding there are claims by at least 15 more brokers still pending for his firm and even more deferred compensation disputes involving Credit Suisse and its ex-brokers still pending overall.

Credit Suisse Responds

"The finding in the case at issue here is directly contrary to the most recent appellate court decision which found that the contingent incentive compensation at issue is not a wage under the law," a Credit Suisse spokesperson told ThinkAdvisor on Wednesday.

"In addition, the appellate courts that have reviewed the handful of erroneous double dip awards referenced by [the claimants'] counsel have taken action to correct substantial errors, despite the high legal standard applicable to the review of arbitration awards," the spokesperson said.

"Credit Suisse continues to believe that no one is entitled to windfall double recoveries of amounts that they have already been paid by the firms they joined," he added.

The Claims

Of the seven brokers in the case decided on Dec. 23 — Douglas B. Prezzano (https://brokercheck.finra.org/individual/summary/2986169); Stewart W. Bosley, III (https://brokercheck.finra.org/individual/summary/3035417); Heinz Jaeggi (https://brokercheck.finra.org/individual/summary/4209427); Stefan F. Lendi (https://brokercheck.finra.org/individual/summary/4209439); Eric B. Miller (https://brokercheck.finra.org/individual/summary/1340803); Steven J. Soja (https://brokercheck.finra.org/individual/summary/1695711); and Roger Wacker (https://brokercheck.finra.org/individual/summary/3265519) — all but Soja joined UBS after leaving Credit Suisse, with Prezzano joining UBS in San Francisco and the others joining UBS in Los Angeles, according to their reports on FINRA's BrokerCheck website. Soja joined First Republic Securities in San Francisco.

The brokers filed a claim against Credit Suisse in October 2019, alleging the firm was guilty of breach of contract, violation of California labor laws, fraud and unjust enrichment. The claimants sought a total of over $6 million in compensatory damages, $3.7 million to $4 million in interest and $1.2 million in legal fees, according to FINRA.

In a counterclaim, Credit Suisse asserted causes of action that included breach of contract, breach of fiduciary duty, unfair competition and misappropriation of trade secrets against the claimants, along with causes of action that included breach of contract (compensation overpayment) and unjust enrichment against Prezzano, Wacker, Lendi, Jaeggi and Soja. The counterclaim was denied by the arb panel.

In 2019, A FINRA arb panel ordered UBS AG's U.S. brokerage division to pay Credit Suisse $9 million to resolve a "raiding" claim. The complaint was filed in December 2015 (https://advisorhub.com/exclusive-credit-suisse-brings-raiding-suit-ubs-2/) after Credit Suisse announced two months earlier it was closing its U.S. brokerage operations and encouraging its brokers to join Wells Fargo Advisors.

(Photo: Bloomberg)
