

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

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In the Matter of the Arbitration Between:

Claimants

Simon Alexander Clarke  
Mitchell Riesenberger  
Jose Joaquin Rodriguez-Villalobos  
Jeremy Seidman

Case Number: 20-02093

vs.

Respondent

Credit Suisse Securities (USA) LLC

Hearing Site: Boston, Massachusetts

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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: Associated Persons vs. Member

The evidentiary hearing was conducted partially by videoconference.

**REPRESENTATION OF PARTIES**

For Claimants Simon Alexander Clarke (“Clarke”), Mitchell Riesenberger (“Riesenberger”), Jose Joaquin Rodriguez-Villalobos (“Rodriguez-Villalobos”), and Jeremy Seidman (“Seidman”) (collectively, “Claimants”): Barry R. Lax, Esq., Lax & Neville LLP, New York, New York.

For Respondent Credit Suisse Securities (USA) LLC (“Respondent”): David S. Pegno, Esq., Dewey Pegno & Kramarsky LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: July 1, 2020.

Statement of Answer to the Counterclaim filed on or about: September 14, 2020.

Simon Alexander Clarke signed the Submission Agreement: June 30, 2020.

Mitchell Riesenberger signed the Submission Agreement: June 30, 2020.

Jose Joaquin Rodriguez-Villalobos signed the Submission Agreement: June 30, 2020.

Jeremy Seidman signed the Submission Agreement: June 30, 2020.

Statement of Answer and Counterclaim filed by Respondent on or about: August 25, 2020.

Credit Suisse Securities (USA) LLC signed the Submission Agreement: August 25, 2020.

### **CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: breach of contract; breach of the implied covenant of good faith and fair dealing; fraud; unjust enrichment; and false and misleading Form U5.

Unless specifically admitted in the Statement of Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim, asserted various affirmative defenses, and asserted the following causes of action: breach of contract; and unjust enrichment.

Unless specifically admitted in the Statement of Answer to the Counterclaim, Claimants denied the allegations made in the Counterclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested: monetary damages equal to Claimants' unpaid earned compensation in an amount not less than: deferred compensation for Claimants as follows: Clarke in the amount of \$885,452.20; Riesenberger in the amount of \$242,275.72; Rodriguez-Villalobos in the amount of \$410,047.62; Seidman in the amount of \$772,080.94; severance for Claimants as follows: Clarke in the amount of \$121,154.00; Riesenberger in the amount of \$129,231.00; Rodriguez-Villalobos in the amount of \$140,000.00; Seidman in the amount of \$72,692.31; placement fees and trailers for Clarke and Riesenberger in unspecified amounts; referral fees for Seidman in an unspecified amount; attorneys' fees and costs; pre-judgement interest; amendment of Claimants' Forms U5 to reflect termination for "Other— Termination without cause"; and for such other and further relief as deemed just, equitable and proper.

In the Statement of Answer and Counterclaim, Respondent requested that the Panel award Respondent: full repayment of the overpayments of compensation that were advanced to Claimants, plus applicable interest, as follows: overpayment to Clarke in the amount of \$46,753.00; overpayment to Riesenberger in the amount of \$25,631.00; overpayment to Rodriguez-Villalobos in the amount of \$22,121.00; overpayment to Seidman in the amount of \$21,740.00; denying the claims asserted in the Statement of Claim in their entirety; and for such other and further relief as deemed just and proper.

In the Statement of Answer to the Counterclaim, Claimants requested that the Counterclaim be denied.

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

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

The evidentiary hearings on Aug 1-3, 2022, proceeded in-person, while the remaining hearing dates proceeded virtually via Zoom.

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. This Award is subject to offsets as described below. Claimants' obligations are extinguished by the offsets.
2. Respondent is liable for and shall pay to Claimant Clarke the sum of \$1,112,139.30 in compensatory damages, which includes accrued interest.
3. Claimant Clarke is liable for and shall pay to Respondent the sum of \$57,647.09 in compensatory damages which includes accrued interest at the rate of 9% per annum from August 25, 2020, until March 28, 2023.
4. Respondent's award in the amount of \$57,647.09 is an offset to Claimant Clarke's award in the amount of \$1,112,139.30. As such, Respondent is liable for and shall pay to Claimant Clarke the sum of \$1,112,139.30 minus \$57,647.09 awarded to Respondent, for a net amount due to Claimant Clarke of \$1,054,492.21.
5. Respondent is liable for and shall pay to Claimant Clarke interest on the amount of \$1,054,492.21 at the rate of 9% per annum, from March 28, 2023, until the award is paid in full.
6. Respondent is liable for and shall pay to Claimant Riesenberger the sum of \$298,031.15 in compensatory damages, which includes accrued interest.
7. Claimant Riesenberger is liable for and shall pay to Respondent the sum of \$31,603.37 in compensatory damages, which includes accrued interest at the rate of 9% per annum from August 25, 2020, until March 28, 2023.
8. Respondent's award in the amount of \$31,603.37 is an offset to Claimant Riesenberger's award in the amount of \$298,031.15. As such, Respondent is liable for and shall pay to Claimant Riesenberger the sum of \$298,031.15 minus \$31,603.37 awarded to Respondent, for a net amount due to Claimant Riesenberger of \$266,427.70.
9. Respondent is liable for and shall pay to Claimant Riesenberger interest on the amount of \$266,427.70 at the rate of 9% per annum, from March 28, 2023, until the award is paid in full.
10. Respondent is liable for and shall pay to Claimant Rodriguez-Villalobos the sum \$507,035.93 in compensatory damages, which includes accrued interest.
11. Claimant Rodriguez-Villalobos is liable for and shall pay to Respondent the sum of \$27,275.50 in compensatory damages, which includes accrued interest at the rate of 9% per annum from August 25, 2020, until March 28, 2023.

12. Respondent's award in the amount of \$27,275.50 is an offset to Claimant Rodriguez-Villalobos' award in the amount of \$507,035.93. As such, Respondent is liable for and shall pay to Claimant Rodriguez-Villalobos the sum of \$507,035.93 minus \$27,275.50 awarded to Respondent, for a net amount due to Claimant Rodriguez-Villalobos of \$479,760.43.
13. Respondent is liable for and shall pay to Claimant Rodriguez-Villalobos interest on the amount of \$479,760.43 at the rate of 9% per annum, from March 28, 2023, until the award is paid in full.
14. Respondent is liable for and shall pay to Claimant Seidman the sum of \$944,812.94 in compensatory damages, which includes accrued interest.
15. Claimant Seidman is liable for and shall pay to Respondent the sum of \$26,805.72 in compensatory damages which includes accrued interest at the rate of 9% per annum from August 25, 2020, until March 28, 2023.
16. Respondent's award in the amount of \$26,805.72 is an offset to Claimant Seidman's award in the amount of \$944,812.94. As such, Respondent is liable for and shall pay to Claimant Seidman the sum of \$944,812.94 minus \$26,805.72 awarded to Respondent, for a net amount due to Claimant Seidman of \$918,007.22
17. Respondent is liable for and shall pay to Claimant Seidman interest on the amount of \$918,007.22 at the rate of 9% per annum, from March 28, 2023, until the award is paid in full.
18. The Panel recommends the expungement of the Reason for Termination in Section 3 of Simon Alexander Clarke's (CRD Number 4232824) Form U5 filed by Credit Suisse Securities (USA) LLC (CRD Number 816) on December 18, 2015 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Other" and the Termination Explanation shall state the following language: "Termination without cause." This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The above recommendations are made with the understanding that the registration records are not automatically amended. Simon Alexander Clarke must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA's Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

19. The Panel recommends the expungement of the Reason for Termination in Section 3 of Mitchell James Riesenberger's (CRD Number 2990475) Form U5 filed by Credit Suisse Securities (USA) LLC (CRD Number 816) on December 18, 2015 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Other" and the Termination Explanation shall state the following language: "Termination without cause." This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The above recommendations are made with the understanding that the registration records are not automatically amended. Mitchell James Riesenberger must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA's Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

20. The Panel recommends the expungement of the Reason for Termination in Section 3 of Jose Joaquin Rodriguez-Villalobos' (CRD Number 1170207) Form U5 filed by Credit Suisse Securities (USA) LLC (CRD Number 816) on December 21, 2015 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Other" and the Termination Explanation shall state the following language: "Termination without cause." This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The above recommendations are made with the understanding that the registration records are not automatically amended. Jose Joaquin Rodriguez-Villaobos must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA's Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

21. The Panel recommends the expungement of the Reason for Termination in Section 3 of Jeremy Seidman's (CRD Number 4706814) Form U5 filed by Credit Suisse Securities (USA) LLC (CRD Number 816) on December 16, 2015 and maintained by the Central Registration Depository ("CRD"). The Reason for Termination shall be changed to "Other" and the Termination Explanation shall state the following language: "Termination without cause." This directive shall apply to all references to the Reason for Termination and Termination Explanation.

The above recommendations are made with the understanding that the registration records are not automatically amended. Jeremy Seidman must obtain confirmation of this Award from a court of competent jurisdiction, before the CRD will execute the expungement directive, and must forward a copy of the Court Order to FINRA's Credentialing, Registration, Education and Disclosure Department for the amendments to be incorporated into the Registration Records.

22. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees and costs, 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 | = \$ | 2,000.00 |
| Counterclaim 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 persons at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Credit Suisse Securities (USA) LLC is assessed the following:

|                    |      |          |
|--------------------|------|----------|
| Member Surcharge   | = \$ | 3,025.00 |
| Member Process Fee | = \$ | 6,175.00 |

**Postponement Fees**

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

|   |      |          |
|---|------|----------|
| November 8-12, 15-19, December 6-10, 13-17, 2021, postponement requested by the parties |      | Waived   |
| July 11-13 and 15, 2022, postponement requested by Respondent                           | = \$ | 1,400.00 |
| February 17, 2023, postponement requested by Claimants                                  |      | Waived   |
| <hr/>   |      |          |
| Total Postponement Fees   | = \$ | 1,400.00 |

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:

|   |      |          |
|---|------|----------|
| July 11-13 and 15, 2022, cancellation requested by Respondent | = \$ | 1,800.00 |
| February 17, 2023, cancellation requested by Claimants        |      | Waived   |
| <hr/>   |      |          |
| Total Last-Minute Cancellation Fees                           | = \$ | 1,800.00 |

The Panel has assessed the total last-minute cancellation 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 |
|--|------|--------|

Respondent submitted two (2) discovery-related motions

|                                     |      |        |
|-------------------------------------|------|--------|
| <hr/>                               |      |        |
| Total Discovery-Related Motion Fees | = \$ | 400.00 |

The Panel has assessed \$100.00 of the discovery-related motion fees jointly and severally to Claimants.

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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

|   |            |           |
|---|------------|-----------|
| Four (4) pre-hearing sessions with the Panel @ \$1,400.00/session | = \$       | 5,600.00  |
| Pre-Hearing Conferences:  |            |           |
| December 2, 2020  | 1 session  |           |
| December 9, 2020  | 1 session  |           |
| July 9, 2021  | 1 session  |           |
| January 12, 2022  | 1 session  |           |
| Forty-eight (48) hearing sessions @ \$1,400.00/session            | = \$       | 67,200.00 |
| Hearings:   |            |           |
| August 1, 2022  | 2 sessions |           |
| August 2, 2022  | 2 sessions |           |
| August 3, 2022  | 2 sessions |           |
| August 5, 2022  | 2 sessions |           |
| August 8, 2022  | 2 sessions |           |
| August 9, 2022  | 2 sessions |           |
| August 10, 2022   | 2 sessions |           |
| August 11, 2022   | 2 sessions |           |
| August 12, 2022   | 2 sessions |           |
| November 7, 2022  | 2 sessions |           |
| November 8, 2022  | 2 sessions |           |
| November 9, 2022  | 2 sessions |           |
| November 10, 2022   | 2 sessions |           |
| November 11, 2022   | 2 sessions |           |
| November 14, 2022   | 2 sessions |           |
| November 15, 2022   | 2 sessions |           |
| December 5, 2022  | 2 sessions |           |
| December 6, 2022  | 2 sessions |           |
| December 7, 2022  | 1 session  |           |
| December 8, 2022  | 2 sessions |           |
| December 9, 2022  | 2 sessions |           |
| January 31, 2023  | 2 sessions |           |
| February 1, 2023  | 1 session  |           |
| February 9, 2023  | 2 sessions |           |
| March 6, 2023   | 2 sessions |           |

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|                                   |             |                  |
|-----------------------------------|-------------|------------------|
| <b>Total Hearing Session Fees</b> | <b>= \$</b> | <b>72,800.00</b> |
|-----------------------------------|-------------|------------------|

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The Panel has assessed \$36,400.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$36,400.00 of the hearing session fees to Respondent.

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





**ARBITRATION PANEL**

|                      |   |  |
|----------------------|---|--|
| Michael A. Orticelle | - | Public Arbitrator, Presiding Chairperson |
| Merriann Panarella   | - | Public Arbitrator                        |
| John R. Snyder       | - | 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**

***Michael A. Orticelle***

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Michael A. Orticelle  
Public Arbitrator, Presiding Chairperson

**04/14/2023**

\_\_\_\_\_  
Signature Date

***Merriann Panarella***

\_\_\_\_\_  
Merriann Panarella  
Public Arbitrator

**04/18/2023**

\_\_\_\_\_  
Signature Date

***John R. Snyder***

\_\_\_\_\_  
John R. Snyder  
Non-Public Arbitrator

**04/14/2023**

\_\_\_\_\_  
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.

April 18, 2023

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