

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants

Jonathan Joseph Galli
Paul Timothy Connolly
Alexander Victor Martinelli
Christopher Leo Herlihy

Case Number: 17-01489

vs.

Respondent

Credit Suisse Securities (USA) LLC

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Associated Persons vs. Member

REPRESENTATION OF PARTIES

For Claimants Jonathan Joseph Galli (“Galli”), Paul Timothy Connolly (“Connolly”), Alexander Victor Martinelli (“Martinelli”), and Christopher Leo Herlihy (“Herlihy”): Barry Lax, Esq., Lax & Neville LLP, New York, New York.

For Respondent Credit Suisse Securities (USA) LLC: Stephen M. Kramarsky, Esq., Dewey Pegno & Kramarsky LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 8, 2017.

Answer to Counterclaim filed on or about: October 10, 2017.

Amended Statement of Claim filed on or about: March 7, 2019.

Jonathan Joseph Galli signed the Submission Agreement: May 30, 2017.

Paul Timothy Connolly signed the Submission Agreement: May 30, 2017.

Alexander Victor Martinelli signed the Submission Agreement: May 30, 2017.

Christopher Leo Herlihy signed the Submission Agreement: May 30, 2017.

Statement of Answer and Counterclaim filed by Respondent on or about: September 7, 2017.

Credit Suisse Securities (USA) LLC signed the Submission Agreement: August 31, 2017.

CASE SUMMARY

Claimants asserted the following causes of action: violation of the Massachusetts Wage Act; breach of contract; breach of implied covenant of good faith and fair dealing; conversion; unjust enrichment; and false and misleading Form U5.

In the Amended Statement of Claim, Claimants added the following cause of action: fraud.

Unless specifically admitted in the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In the Counterclaim, Respondent asserted the following causes of action: breach of contract; unjust enrichment; breach of fiduciary duty; unfair competition; and misappropriation of trade secrets.

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

RELIEF REQUESTED

In the Statement of Claim and Amended Statement of Claim, Claimants requested compensatory damages in the amount of \$4,500,000.00; attorneys' fees and costs as required by Massachusetts Wage Law; treble damages as required by Massachusetts Wage Law; prejudgment interest; amendment of Claimants' respective Form U5's; and for such other relief as the Panel deems just, equitable, and proper.

In the Statement of Answer and Counterclaim, Respondent requested dismissal of the Statement of Claim in its entirety; compensatory damages in the amount of \$152,201.00; interest; damages sustained as a result of Claimants' breaches in an amount to be determined at hearing; and a declaration that Claimants are not entitled to vesting or delivery of their unvested contingent deferred awards under the share plan and related documentation; and such other and further relief as the Panel deems just and proper.

In the Answer to Counterclaim, Claimants requested the Panel deny the Counterclaim, costs; and attorneys' fees.

At the hearing, Claimant Galli requested compensatory damages in the amount of \$1,574,719.02; interest in the amount of \$805,565.85; treble damages in the amount of \$4,724,157.06; and attorneys' fees and costs in the amount of \$226,298.32.

At the hearing, Claimant Connolly requested compensatory damages in the amount of \$2,417,603.44; interest in the amount of \$1,236,753.19; treble damages in the amount of \$7,252,810.31; and attorneys' fees and costs in the amount of \$226,298.32.

At the hearing, Claimant Martinelli requested compensatory damages in the amount of \$495,336.79; interest in the amount of \$253,395.30; treble damages in the amount of \$1,486,010.37; and attorneys' fees and costs in the amount of \$226,298.32.

At the hearing, Claimant Herlihy requested compensatory damages in the amount of \$554,832.52; interest in the amount of \$283,831.04; treble damages in the amount of \$1,664,497.56; and attorneys' fees and costs in the amount of \$226,298.32.

OTHER ISSUES CONSIDERED AND DECIDED

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

By correspondence dated August 2, 2018, Claimants filed a Motion to Amend to add a cause of action of fraud. By correspondence dated August 13, 2018, Respondent objected to Claimants' Motion. By correspondence dated August 27, 2018, Claimants filed a Reply. After due deliberation and by Order dated March 7, 2019, the Panel granted Claimants' Motion to Amend.

By correspondence dated April 18, 2019, Respondent filed a Motion for Sanctions related to Claimants' Spoliation of Evidence and Claimants objected. On June 21, 2019, the Panel heard oral argument on Respondent's Motion. After due deliberation and by Order dated July 1, 2019, the Panel denied Respondent's Motion for Sanctions without prejudice.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

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 Galli the sum of \$407,590.33 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant Connolly the sum of \$563,332.31 in compensatory damages.
3. Respondent is liable for and shall pay to Claimant Martinelli the sum of \$125,316.33 in compensatory damages.
4. Respondent is liable for and shall pay to Claimant Herlihy the sum of \$506,370.98 in compensatory damages.
5. Respondent is liable for and shall pay to Claimant Herlihy interest on the amount of \$506,370.98 at the rate of 12% per annum from June 8, 2017 until the award is paid in full.
6. Galli's, Connolly's, and Martinelli's requests for interest is denied.
7. Respondent is liable for and shall pay to Claimant Galli the sum of \$20,832.00 in costs.
8. Respondent is liable for and shall pay to Claimant Connelly the sum of \$20,832.00 in costs.

9. Respondent is liable for and shall pay to Claimant Martinelli the sum of \$20,832.00 in costs.
10. Respondent is liable for and shall pay to Claimant Herlihy the sum of \$20,832.00 in costs.
11. Respondent is liable for and shall pay to Claimant Galli the sum of \$102,733.00 in attorneys' fees. The Panel is authorized to award attorneys' fees because both parties requested attorneys' fees in closing arguments.
12. Respondent is liable for and shall pay to Claimant Connolly the sum of \$102,733.00 in attorneys' fees. The Panel is authorized to award attorneys' fees because both parties requested attorneys' fees in closing arguments.
13. Respondent is liable for and shall pay to Claimant Martinelli the sum of \$102,733.00 in attorneys' fees. The Panel is authorized to award attorneys' fees because both parties requested attorneys' fees in closing arguments.
14. Respondent is liable for and shall pay to Claimant Herlihy the sum of \$102,733.00 in attorneys' fees. The Panel is authorized to award attorneys' fees because both parties requested attorneys' fees in closing arguments.
15. Claimant Galli's request for expungement of his Form U5 is denied.
16. Claimant Connolly's request for expungement of his Form U5 is denied.
17. Claimant Martinelli's request for expungement of his Form U5 is denied.
18. Claimant Herlihy's request for expungement of his Form U5 is denied.
19. Respondent's Counterclaim is denied in its entirety.
20. Any and all claims for relief not specifically addressed herein, including treble damages, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee	=\$ 2,250.00
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) is assessed the following:

Member Surcharge	= \$ 4,025.00
Member Process Fee	= \$ 7,000.00

Postponement Fees

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

September 4-7, 10-14 and 17, 2018, postponement by parties	= \$ 1,500.00
May 13-17, 20-24, and 28-31, 2019, postponement by parties	= \$ 1,500.00
January 20, 2020, postponement by parties	Waived

Total Postponement Fees	= \$ 3,000.00
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The Panel has assessed \$1,500.00 of the adjournment fees jointly and severally to Claimants.

The Panel has assessed \$1,500.00 of the adjournment fees to Respondent.

Last Minute Cancellation Fees

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

May 13-17, 20-24, and 28-31, 2019, postponement by parties	= \$ 1,800.00
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Total Last Minute Cancellation Fees	= \$ 1,800.00
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The Panel has assessed \$900.00 of the last minute cancellation fees jointly and severally to Claimants.

The Panel has assessed \$900.00 of the last minute cancellation fees to Respondent.

Discovery-Related Motion Fee

Fees apply for each decision rendered on a discovery-related motion.

Three (3) decisions on discovery-related motions on the papers with one (1) arbitrator @ \$200.00/decision	= \$ 600.00
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One (1) decision on a discovery-related motion on the papers with three (3) arbitrators @ \$600.00 /decision	= \$ 600.00
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Respondent submitted four discovery-related motions

Total Discovery-Related Motion Fees	= \$ 1,200.00
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The Panel has assessed the \$1,200.00 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, that lasts four (4) hours or less. Fees associated with these proceedings are:

Six (6) pre-hearing sessions with the Panel @ \$1,500.00/session = \$ 9,000.00

Pre-hearing conferences:

November 14, 2017	1 session
July 24, 2018	1 session
August 13, 2018	1 session
November 20, 2018	1 session
June 21, 2019	1 session
June 25, 2019	1 session

Thirty-nine (39) hearing sessions @ \$1,500.00/session = \$58,500.00

Hearing Dates:

July 30, 2019	2 sessions
July 31, 2019	2 sessions
August 1, 2019	2 sessions
August 2, 2019	2 sessions
August 5, 2019	2 sessions
August 6, 2019	2 sessions
August 7, 2019	2 sessions
August 8, 2019	2 sessions
August 9, 2019	2 sessions
November 11, 2019	2 sessions
November 12, 2019	2 sessions
November 14, 2019	2 sessions
November 15, 2019	2 sessions
December 3, 2019	2 sessions
December 4, 2019	2 sessions
December 6, 2019	2 sessions
January 9, 2020	1 session
January 21, 2020	1 session
January 22, 2020	2 sessions
January 23, 2020	3 sessions

Total Hearing Session Fees = \$67,500.00

The Panel has assessed \$33,750.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$33,750.00 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

David Wertz Ellis	-	Public Arbitrator, Presiding Chairperson
John George Neylon, Sr.	-	Public Arbitrator
Charles R Markham	-	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

David Wertz Ellis

David Wertz Ellis
Public Arbitrator, Presiding Chairperson

02/14/2020

Signature Date

John George Neylon, Sr.

John George Neylon, Sr.
Public Arbitrator

02/14/2020

Signature Date

Charles R Markham

Charles R Markham
Non-Public Arbitrator

02/13/2020

Signature Date

February 14, 2020

Date of Service (For FINRA Office of Dispute Resolution office use only)