

**Award**  
**FINRA Office of Dispute Resolution**

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In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number: ██████████

vs.

Respondent

Credit Suisse Securities (USA) LLC

Hearing Site: New York, New York

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████: Doctor Kennedy, AdvisorLaw LLC,  
Broomfield, Colorado.

For Respondent Credit Suisse Securities (USA) LLC: Deborah Burstein, Esq., Credit  
Suisse Securities (USA) LLC, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: January 22, 2018.

████████████████████ signed the Submission Agreement: January 22, 2018.

Statement of Answer filed by Respondent on or about: March 9, 2018.

Credit Suisse Securities (USA) LLC signed the Submission Agreement: January 22, 2018.

**CASE SUMMARY**

Claimant asserted the following cause of action: expungement.

Respondent did not oppose the relief sought by Claimant.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested:

1. expungement of occurrence numbers ██████████, ██████████ and ██████████ from his CRD records pursuant to FINRA Rule 2080(b)(1)(A), as the claims, allegations, or information is factually impossible or clearly erroneous.
2. expungement of occurrence numbers ██████████ ██████████ and ██████████ from his CRD record pursuant to FINRA Rule 2080(b)(1)(C), as the claim, allegation, or information is false.

3. an award of compensatory damages in the amount of \$1.00 from the Respondent; and
4. any and all other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that no forum fees be awarded against it.

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

The Arbitrator acknowledges that she has read the pleadings and other materials filed by the parties.

Claimant provided FINRA Office of Dispute Resolution with proof that he notified the customers related to occurrence numbers [REDACTED], [REDACTED] and [REDACTED] of the expungement request and of their right to participate and testify at the expungement hearing and included a copy of the Statement of Claim with the notice.

The Arbitrator conducted a telephonic expungement hearing on September 6, 2018 so the parties could present oral argument and evidence on Claimant's request for expungement.

The Respondent and the customers did not participate in the expungement hearing, and did not contest the request for expungement.

The Arbitrator reviewed Claimant's BrokerCheck® Report and the settlement documents related to occurrence number [REDACTED] considered the amount of payments made to the customers, and considered the other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customers not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's Statement of Claim, Respondent's Statement of Answer, Claimant's BrokerCheck® Report, the Settlement Agreement related to occurrence number [REDACTED], the award related to occurrence number [REDACTED] and the evidence and testimony presented at the expungement hearing.

The Arbitrator noted that occurrence number [REDACTED] arose from a prior arbitration matter in which Credit Suisse Securities (USA) LLC was named Respondent. However, the arbitrator also noted that [REDACTED] was not named a Respondent and was not required to contribute to the award.

The Arbitrator noted that Claimant did not previously file a claim requesting expungement of the same disclosure in the CRD.

## AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's request for compensatory damages is denied.
2. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [REDACTED] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The customers claimed unsuitable recommendation in three (3) real estate investment trusts that were adversely affected in the credit and real estate market. However, Claimant did have a reasonable basis to believe the investments were suitable based upon comprehensive due diligence (i.e., risk assessment, investment objective analysis, and account application associated with investors). Additionally, the customers failed to prove their claim, did not appear at the expungement hearing and did not oppose any of the statements made by Claimant in his Statement of Claim regarding the within matter.

3. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [REDACTED] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

The customers claimed unsuitable managed real estate income trust and funds recommended in 2004 & 2005. However, Claimant did have a reasonable basis to believe the investments were suitable based upon comprehensive due diligence (i.e., risk assessment, investment objective analysis, and account application associated with investors). Additionally, the customers failed to prove their claim, did not appear for the expungement hearing and did not oppose any of the statements made by Claimant in his Statement of Claim regarding the within matter.

4. The Arbitrator recommends the expungement of all references to occurrence number [REDACTED] from registration records maintained by the Central Registration Depository ("CRD"), for [REDACTED] (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members 04-16, [REDACTED] must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 13805 of the Code, the Arbitrator has made the following Rule 2080 affirmative finding of fact:

The claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 finding based on the following reasons:

All facts and details were disclosed and discussed with the customers. The investors were satisfied with the Claimant's explanation and did not pursue their complaint further. Additionally, the customers failed to prove their claim, did not appear at the expungement hearing and did not oppose any of the statements made by Claimant in his Statement of Claim regarding the within matter.

5. Any and all claims for relief not specifically addressed herein 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 = \$ 50.00

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

Member Surcharge = \$ 150.00

### Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single arbitrator @ \$50.00/session	= \$ 100.00
Pre-hearing conference: May 21, 2018	1 session
June 7, 2018	1 session

One (1) hearing session on expungement request @ \$50.00/session	= \$ 50.00
Hearing Date: September 6, 2018	1 session

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Total Hearing Session Fees	= \$ 150.00
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The Arbitrator has assessed the \$150.00 hearing session fees to Claimant.

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

**ARBITRATOR**

Karimu F. Hill-Harvey

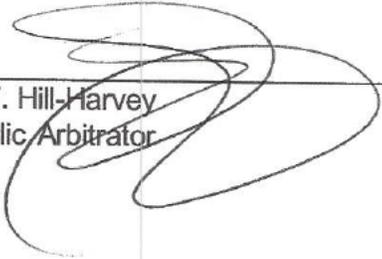
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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

**Arbitrator's Signature**

Karimu F. Hill-Harvey  
Sole Public Arbitrator



10/1/18  
Signature Date

October 8, 2018

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