

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

---

In the Matter of the Arbitration Between:

Claimant

████████████████████

Case Number ██████████

vs.

Respondent

Credit Suisse Securities (USA), LLC

Hearing Site: Los Angeles, California

---

Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

For Claimant ██████████ Eric Litow, Esq., AdvisorLaw, LLC, Westminster, 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: June 4, 2018.

████████████████████ signed the Submission Agreement: June 4, 2018.

Statement of Answer filed by Respondent on or about: June 28, 2018.

Credit Suisse Securities (USA), LLC signed the Submission Agreement: June 28, 2018.

**CASE SUMMARY**

Claimant asserted the cause of action of inaccurate reporting on his Central Registration Deposition ("CRD") records. The cause of action relates to a previously settled customer arbitration (Occurrence No. ██████████ involving a customer's investments in the Black Gold Fund.

Unless specifically admitted in the Statement of Answer, Respondent stated that it does not oppose the request for expungement and that it will not be attending the hearing.

**RELIEF REQUESTED**

In the Statement of Claim, Claimant requested expungement of all references to Occurrence No. ██████████ from his CRD records and compensatory damages of \$1.00.

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

At the close of the hearing, Claimant withdrew his request for \$1.00 in compensatory damages.

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

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

On or about October 25, 2018, Claimant filed with FINRA Office of Dispute Resolution a notice of service upon the underlying customer ("Customer") in connection with Occurrence No. [REDACTED] of the Statement of Claim in this matter, notice of the date and time of the upcoming expungement hearing and the Customer's right to participate therein.

On or about November 7, 2018, the Customer filed a response opposing Claimant's request for expungement, alleging, among other things, that Claimant made unsuitable investment recommendations.

The Arbitrator conducted a recorded telephonic hearing on January 10, 2019, so the parties could present oral argument and evidence on Claimant's request for expungement. Respondent did not participate in the expungement hearing and did not contest the request for expungement. The Customer participated in the expungement hearing and contested the request for expungement.

The Arbitrator reviewed the BrokerCheck® Report for Claimant and the settlement documents, considered the amount of payments made to any party, and considered other relevant terms and conditions of the settlement. The Arbitrator noted that the settlement was not conditioned on the customer not opposing the request for expungement. The Arbitrator also noted that Claimant did not contribute to the settlement amount, and that the amount of the settlement did not seem significant when compared to the Customer's total portfolio.

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

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Claimant's testimony; letter from the Customer; and the Customer's testimony.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the recorded telephonic hearing, and the post-hearing submissions, if any, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The Arbitrator recommends the expungement of all references to Occurrence No. [REDACTED] from registration records maintained by the CRD, for Claimant (CRD# [REDACTED]), with the understanding that, pursuant to Notice to Members

04-16, Claimant 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 of Arbitration Procedure (“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:

Claimant’s testimony and the Customer’s letter and testimony indicated that the Customer was an experienced, sophisticated investor. The portfolio designed by the Claimant was very similar to that which the Customer had before moving his account to Respondent. The Customer and Claimant testified that the compensation and risk profile was very similar but the Customer was cash heavy and wanted to put more cash to work, i.e., invest more cash and improve his investment return. Given those circumstances, the Customer’s experience and sophistication, the size of the portfolio, and percentage of the total amount that was invested in the Black Gold Fund, the Arbitrator does not find the recommendation was unsuitable. Therefore, the Customer’s allegation that Claimant made unsuitable recommendations is false based on the foregoing reasons.

### **FEES**

Pursuant to the Code, 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge	= \$150.00
------------------	------------

#### **Postponement Fees**

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

November 16, 2018, postponement by Claimant WAIVED

---

Total Postponements Fee WAIVED

The Arbitrator has waived the postponement fee.

**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(s), including a pre-hearing conference with the arbitrator(s) 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 = \$ 50.00  
Pre-hearing conference: September 26, 2018 1 session

One (1) hearing session on expungement request @ \$50.00/session = \$ 50.00  
Hearing Date: January 10, 2019 1 session

---

Total Hearing Session Fees = \$100.00

The Arbitrator has assessed the total hearing session fees of \$100.00 to Claimant.

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

**ARBITRATOR**

Joyce L. Hurley

-

Sole 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.

**Arbitrator's Signature**

/s/Joyce L. Hurley

\_\_\_\_\_  
Joyce L. Hurley  
Sole Public Arbitrator

1/17/2019

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

1/17/2019

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