

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Name of the Claimant  
Jaime Figarola

Case Number: 03-09241

Name of the Respondent  
Credit Suisse First Boston, Inc.

Hearing Site: Boca Raton, Florida

---

Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

For Jaime Figarola, hereinafter referred to as "Claimant": Ronald Shindler, Esq. and Melanie S. Cherdack, Esq., Fowler White Burnett, P.A., Miami, Florida.

For Credit Suisse First Boston, Inc. ("CSFB"), hereinafter referred to as "Respondent": Mark E. Zelek, Esq. and Heidi Swartz, Esq., Morgan, Lewis & Bockius, LLP, Miami, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 31, 2003.

Claimant signed the Uniform Submission Agreement: October 31, 2003.

Amended Statement of Claim filed on or about: March 22, 2004.

Statement of Answer and Counterclaim filed by Respondent on or about: May 24, 2004.

Respondent signed the Uniform Submission Agreement: May 24, 2004.

Reply to Counterclaim filed by Claimant on or about: July 6, 2004.

Pre-Hearing Brief and Motion to Dismiss Amended Statement of Claim filed by Respondent on or about: August 24, 2005.

Second Motion for Sanctions and Renewed First Motion for Sanctions for Continuing Discovery Abuse filed by Claimant on or about: March 19, 2006.

Motion to Tax Costs filed by Claimant on or about: April 3, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) wrongful termination; 2) improper U-5 reporting; 3) unjust enrichment; and 4) failure to pay vested benefits and other compensation. The causes of action relate to the termination of Claimant's employment with Respondent CSFB.

Unless specifically admitted in its Answer, Respondent CSFB denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses. In its Counterclaim, Respondent CSFB asserted the following causes of action: 1) breach of promissory note; and 2) indemnification for damages incurred as a result of Claimant's improper recommendations and purchases.

Unless specifically admitted in his Reply, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$17,500,000.00; 2) back pay and future pay based on Claimant's salary and earnings from commissions; 3) the value of Claimant's \$150,000,000.00 client base; 4) other wage compensation and benefit-related claims; 5) the damage to Claimant's reputation caused by Respondent; 6) punitive damages; 7) costs and expenses for this arbitration; 8) attorneys' fees; and 9) such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested: 1) an award of \$223,837.09 for tax liabilities associated with Claimant's loan forgiveness; and 2) an amount in excess of \$3,000,000.00 as a result of Claimant's improper recommendations and purchases of securities for CSFB's customers. Respondent CSFB requested the following relief in its Counterclaim: 1) compensatory damages in the amount of \$223,837.09; 2) interest from the date Claimant's tax obligations were paid; 3) indemnification in an amount not less than \$3,000,000.00 for Claimant's improper recommendations and purchases of securities which have resulted in liability for Respondent; 4) that the Panel: a) issue a specific finding that Claimant breached his promissory note; b) issue a specific finding that Respondent CSFB paid Claimant all earned wages; and c) issue a specific finding that Claimant's wrongful termination claim is not recognized under Florida law, so that Respondent CSFB can then apply to a court of competent jurisdiction for an award of attorneys' fees; and 5) such other and further relief the Panel deems just and proper.

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

On or about September 22, 2005, the Panel entered an Order denying Respondent's Motion to Dismiss the Amended Statement of Claim.

On or about January 23, 2006, Claimant made an ore tenus motion for sanctions against Respondents. On or about January 23, 2006, the Panel deferred ruling on the Claimant's motion for sanctions until the conclusion of the evidentiary hearing.

On or about April 4, 2006, the Panel deferred ruling on the Claimant's second motion for sanctions until the conclusion of the evidentiary hearing.

On or about April 20, 2006, the Panel denied the both of Claimant's motions for sanctions.

On or about April 11, 2006, the Parties submitted notification that they were in agreement to the expungement of Claimant Figarola's Central Registration Depository ("CRD") record to reflect the reason for his termination on his U-5 to be changed from "job elimination" to "voluntary."

On or about April 20, 2006, the Panel denied Claimant's Motion to Tax Costs.

The parties 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. Claimant's claims against Respondent are denied.
2. Claimant is liable on the counterclaim for taxes resulting from the breach of the promissory note and shall pay to Respondent CSFB the sum of \$223,837.09.
3. The Panel recommends expungement of the Form U-5 to correct the U-5 termination reason from "job elimination" to "voluntary" from Respondent Figarola's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Figarola must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. Any and all requests for relief not specifically addressed herein, including Claimant's requests for punitive damages and attorneys' fees, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 600.00
Counterclaim filing fee	= \$ 2,000.00

#### **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, Respondent CSFB is a party and a member firm.

Member surcharge	= \$ 3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00
Total Member Fees	= \$10,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

January 20, 2006, adjournment requested by Claimant.

The Panel has assessed an adjournment fee in the amount of \$1,200.00 to Claimant.

#### **Three-Day Cancellation Fees**

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

There were no three-day cancellation fees assessed during these proceedings.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

There were no injunctive relief fees assessed during these proceedings.

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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 @ \$450.00 per session	= \$ 450.00
Pre-hearing conference: August 18, 2005 1 session	

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00 per session	= \$ 2,400.00
Pre-hearing conferences: June 7, 2004 1 session	
August 19, 2004 1 session	

Thirty (30) Hearing sessions @ \$1,200.00 per session	= \$36,000.00
Hearing Dates: September 8, 2005 2 sessions	
September 9, 2005 2 sessions	
September 13, 2005 2 sessions	
September 14, 2005 2 sessions	
September 15, 2005 2 sessions	
September 16, 2005 2 sessions	
January 23, 2006 2 sessions	
January 24, 2006 2 sessions	
January 25, 2006 2 sessions	
January 26, 2006 2 sessions	
January 27, 2006 2 sessions	
April 4, 2006 2 sessions	
April 5, 2006 2 sessions	
April 6, 2006 2 sessions	
April 7, 2006 2 sessions	

---

Total Forum Fees	= \$38,850.00
------------------	---------------

The Panel has assessed forum fees in the amount of \$19,425.00 to Claimant.

The Panel has assessed forum fees in the amount of \$19,425.00 to Respondent.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs assessed during these proceedings.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$19,425.00
Total Fees	= \$21,225.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$19,425.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 2,000.00
Member Fees	= \$10,000.00
Forum Fees	= \$19,425.00
Total Fees	= \$31,425.00
Less payments	= \$18,700.00
Balance Due NASD Dispute Resolution	= \$12,725.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Carl J. Hegner	-	Non-Public Arbitrator, Presiding Chairperson
David W. Newman	-	Non-Public Arbitrator
Andrew F. Greitz, Jr.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Carl J. Hegner  
Non-Public Arbitrator, Presiding Chairperson

4/25/06  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
David W. Newman  
Non-Public Arbitrator

4/25/06  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Andrew F. Greitz, Jr.

4/25/06  
Signature Date

Non-Public Arbitrator

4/26/06

Date of Service (For NASD Dispute Resolution office use only)

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$19,425.00</u>
Total Fees	= \$21,225.00
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$19,425.00

Respondent is solely liable for:

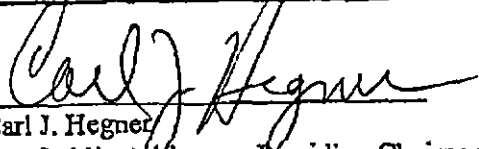
Counterclaim Filing Fee	= \$ 2,000.00
Member Fees	= \$10,000.00
<u>Forum Fees</u>	<u>= \$19,425.00</u>
Total Fees	= \$31,425.00
<u>Less payments</u>	<u>= \$18,700.00</u>
Balance Due NASD Dispute Resolution	= \$12,725.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Carl J. Hegner	-	Non-Public Arbitrator, Presiding Chairperson
David W. Newman	-	Non-Public Arbitrator
Andrew F. Greitz, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
Carl J. Hegner  
Non-Public Arbitrator, Presiding Chairperson

4/25/06  
Signature Date

\_\_\_\_\_  
David W. Newman  
Non-Public Arbitrator

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

\_\_\_\_\_  
Andrew F. Greitz, Jr.

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

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs assessed during these proceedings.

### Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$19,425.00
Total Fees	= \$21,225.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$19,425.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 2,000.00
Member Fees	= \$10,000.00
Forum Fees	= \$19,425.00
Total Fees	= \$31,425.00
Less payments	= \$18,700.00
Balance Due NASD Dispute Resolution	= \$12,725.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

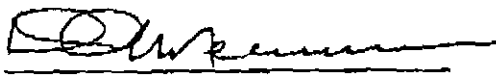
### ARBITRATION PANEL

Carl J. Hegner	-	Non-Public Arbitrator, Presiding Chairperson
David W. Newman	-	Non-Public Arbitrator
Andrew F. Greitz, Jr.	-	Non-Public Arbitrator

### Concurring Arbitrators' Signatures

\_\_\_\_\_  
Carl J. Hegner  
Non-Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
David W. Newman  
Non-Public Arbitrator

*April 25, 2006*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Andrew F. Greitz, Jr.

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



Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs assessed during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$19,425.00
Total Fees	= \$21,225.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$19,425.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 2,000.00
Member Fees	= \$10,000.00
Forum Fees	= \$19,425.00
Total Fees	= \$31,425.00
Less payments	= \$18,700.00
Balance Due NASD Dispute Resolution	= \$12,725.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Carl J. Hegner	•	Non-Public Arbitrator, Presiding Chairperson
David W. Newman	•	Non-Public Arbitrator
Andrew F. Greitz, Jr.	•	Non-Public Arbitrator

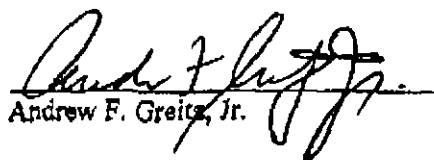
Concurring Arbitrators' Signatures

\_\_\_\_\_  
Carl J. Hegner  
Non-Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
David W. Newman  
Non-Public Arbitrator

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

  
\_\_\_\_\_  
Andrew F. Greitz, Jr.

8-25-06  
\_\_\_\_\_  
Signature Date