

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Catalyst Health Solutions, Inc.

Case Number: 09-00950

Name of the Respondent  
Credit Suisse Securities (USA) LLC

Hearing Site: Washington, D.C.

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Catalyst Health Solutions, Inc., hereinafter referred to as "Claimant": Susan R. Podolsky, Esq., Bruce V. Spiva, Esq. and Kathleen R. Hartnett, Esq., Spiva & Hartnett LLP, Washington, D.C.

For Credit Suisse Securities (USA) LLC, hereinafter referred to as "Respondent": Brian Amery, Esq., Edward Zipf, Esq. and Nikolas S. Komyati, Esq., Bressler, Amery & Ross, Morristown, New Jersey.

**CASE INFORMATION**

Statement of Claim filed on or about: February 23, 2009.  
Claimant signed the Submission Agreement: February 20, 2009.  
Statement of Answer filed by Respondent on or about: May 8, 2009.  
Respondent signed the Submission Agreement: May 18, 2009.  
Motion to Exclude Testimony of Expert Witnesses filed by Claimant on or about: January 19, 2010.  
Response to Motion to Exclude Testimony of Expert Witnesses filed by Respondent on or about: January 25, 2010.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) violation of Section 10(b) of the Securities and Exchange Act of 1934, as amended, 15 U.S.C. § 78j(b); 2) common law fraud; 3) lack of suitability; 4) negligence; 5) unjust enrichment; and, 6) constructive trust. The causes of action relate to the purchase of student loan pool-backed auction rate securities in Claimant's account.

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

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$11,925,000.00, rescission, pre-and post-award interest, disgorgement of all fees, commissions or other compensation on all purchases and sales, costs and disbursements, including the fees and expenses of counsel, and punitive damages in the amount of \$25,000,000.00.

In its Statement of Answer, Respondent requested that the Panel dismiss Claimant's claim in its entirety and any further relief this Panel deemed appropriate.

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

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

On or about January 26, 2010 and during the final hearing, the Panel denied Claimant's Motion to Exclude Testimony of Expert Witnesses.

The parties 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:

Respondent is found liable and shall pay to Claimant the amount of \$9,750,000.00, representing the face value of all securities now held in Claimant's account. In return, Claimant is to transfer all securities held in its account to Respondent. Interest shall accrue at the rate of 6% per annum on any unpaid amounts from thirty days after service of the Award until paid.

Any and all claims for relief not specifically addressed herein, including Claimant's requests for fees and expenses of counsel and punitive damages, are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee = \$1,800.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*



/s/      
Bryan Thomas Di Lella  
Public Arbitrator

5/27/10  
Signature Date

    /s/      
Albert D. Sturtevant  
Non-Public Arbitrator

5/27/10  
Signature Date

    5/27/10      
Date of Service (For FINRA Dispute Resolution use only)

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**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 is a party and a member firm.

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

**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:

Five (5) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$6,000.00
Pre-hearing conferences:	
June 25, 2009	1 session
September 10, 2009	1 session
October 6, 2009	1 session
December 23, 2009	1 session
April 2, 2010	1 session

Sixteen (16) Hearing sessions @ \$1,200.00/session	= \$19,200.00
Hearing Dates:	
January 25, 2010	2 sessions
January 26, 2010	2 sessions
January 27, 2010	2 sessions
January 28, 2010	2 sessions
May 12, 2010	2 sessions
May 13, 2010	2 sessions
May 14, 2010	2 sessions
May 19, 2010	2 sessions

**Total Hearing Session Fees = \$25,200.00**


The Panel has assessed the total hearing session fees in the amount of \$25,200.00 to Respondent.

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

**ARBITRATION PANEL**

Michael H. McConihe	-	Public Arbitrator, Presiding Chairperson
Bryan Thomas Di Lella	-	Public Arbitrator
Albert D. Sturtevant	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
 Michael H. McConihe  
 Public Arbitrator, Presiding Chairperson

5-27-10  
Signature Date

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Bryan Thomas/Di Lella  
Public Arbitrator

MAY 27, 2010.  
Signature Date

Albert D. Sturtevant  
Non-Public Arbitrator

Signature Date

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