

**Award**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Jay Raubvogel  
M. Raubvogel Co., Inc. Trust  
Seymour Raubvogel

Case Number: 09-02906

Name of the Respondent

Credit Suisse Securities (USA) LLC  
d/b/a Credit Suisse

Hearing Site: Boca Raton, FL

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Jay Raubvogel, M. Raubvogel Co., Inc. Trust, and Seymour Raubvogel, hereinafter collectively referred to as "Claimants": Christopher J. Gray, Esq., Law Office of Christopher J. Gray, P.C., New York, NY and Gregory S. Collett, Esq., Brooklyn, NY, Of Counsel.

For Credit Suisse Securities (USA) LLC d/b/a Credit Suisse ("Credit Suisse"), hereinafter referred to as "Respondent": Allan N. Taffet, Esq., Duval & Stachenfeld LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: May 21 2009.

Claimants signed the Submission Agreement: May 5, 2009.

Answer and Defenses of Respondent Credit Suisse filed on or about: August 13, 2009.

Respondent signed the Submission Agreement: August 25, 2009.

Claimants' Motion For Leave To Amend the Statement Of Claim To Clarify That They Are Seeking Relief Under Fla. Stats. §517.301("Motion to Amend") filed on or about: November 30, 2010.

Respondent's Opposition to the Motion to Amend filed on or about: December 10, 2010.

Reply Brief in Further Support of the Motion to Amend filed by Claimants on or about: December 17, 2010.

**CASE SUMMARY**

Claimants asserted the following causes of action: mismanagement of Claimants' accounts in violation of applicable standards including FINRA Rule 2310 and NYSE Rule 405; breach of fiduciary duty; professional negligence; breach of contract under

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common law; arbitral adjustment; violation of Florida Statutes §517.301; and, failure to supervise. The causes of action relate to the purchase of shares of Deerfield Capital Corp., Resource Capital Corp. and Realty Finance Corp. in Claimants' accounts.

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

### **RELIEF REQUESTED**

Claimants requested an unspecified amount of compensatory damages including disgorgement of all unjust enrichment, compensatory damages in a sum equal to Claimants' lost profits and income, an arbitral or equitable adjustment in the financial relations of the parties by ordering Respondent to pay Claimants an equitable and fair sum, pre-judgment interest, attorneys' fees, punitive damages, costs, and such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

At the close of the hearing, Claimants requested compensatory damages and statutory interest of \$2,192,742.95.

Respondent requested dismissal of the Statement of Claim, costs, attorneys' fees, and any further relief that the Panel deemed just and equitable.

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

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

On or about January 5, 2011, the Panel entered an order which granted Claimants' Motion to Amend.

The parties have agreed that a handwritten, signed Award may be entered in this matter.

### **AWARD**

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

Respondent is liable and shall pay to Claimant Seymour Raubvogel compensatory damages in the sum of \$305,341.00, inclusive of pre-judgment interest.

Respondent is liable and shall pay to Claimant Jay Raubvogel for the losses he sustained in his IRA, compensatory damages in the sum of \$88,293.00, inclusive of pre-judgment interest.

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Respondent is liable and shall pay to Claimant M. Raubvogel Co., Inc. Trust compensatory damages in the sum of \$373,301.00, inclusive of pre-judgment interest.

Claimants' claims pursuant to Florida Statutes §517.301 are also granted.

The Panel chose not to award attorneys' fees.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

### FEES

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

#### Filing Fees

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

Initial claim filing fee	= \$1,250.00
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\*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 and a member firm, Respondent is assessed the following:

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 12 - 16, 2010, adjournment by all parties	= \$1,000.00
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The Panel has assessed \$500.00 of the adjournment fee jointly and severally to Claimants.

The Panel has assessed \$500.00 of the adjournment fee to Respondent.

January 24 – 28, 2011, adjournment by all parties

The Panel has waived assessment of the adjournment fee.

#### 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 arbitrator(s), including a pre-hearing



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/s/  
James D. McDonald  
Non-Public Arbitrator

Signature Date

April 8, 2011  
Date of Service (For FINRA Dispute Resolution use only)

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conference with the arbitrator(s) that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 900.00

Pre-hearing conferences: September 17, 2010 1 session  
 March 24, 2011 1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,000.00/session = \$2,000.00

Pre-hearing conferences: September 16, 2009 1 session  
 January 5, 2011 1 session

Seven (7) Hearing sessions @ \$1,000.00/session = \$7,000.00

Hearing Dates: March 28, 2011 2 sessions  
 March 29, 2011 2 sessions  
 March 30, 2011 2 sessions  
 March 31, 2011 1 session

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Total Hearing Session Fees = \$9,900.00

The Panel has assessed \$2,475.00 of the hearing session fees to Claimant Jay Raubvogel.

The Panel has assessed \$2,475.00 of the hearing session fees to Claimant M. Raubvogel Co., Inc. Trust.

The Panel has assessed \$4,950.00 of the hearing session fees to Respondent.

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

#### ARBITRATION PANEL

Randy R. Freedman - Public Arbitrator, Presiding Chairperson  
 Steven G. Montesi - Public Arbitrator  
 James D. McDonald - Non-Public Arbitrator

#### Concurring Arbitrators' Signatures



Randy R. Freedman  
 Public Arbitrator, Presiding Chairperson

4/7/11  
 Signature Date

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Steven G. Montesi  
 Public Arbitrator

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Signature Date

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 Steven G. Montesi - Public Arbitrator  
 James D. McDonald - Non-Public Arbitrator

#### Concurring Arbitrators' Signatures

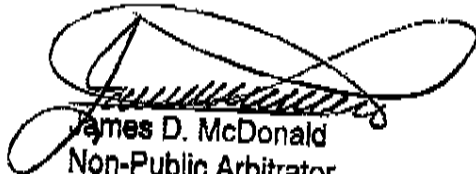
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 Randy R. Freedman  
 Public Arbitrator, Presiding Chairperson

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 Signature Date

  
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 Steven G. Montesi  
 Public Arbitrator

4/8/11  
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 Signature Date

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James D. McDonald  
Non-Public Arbitrator

*April 8, 2011*  
Signature Date

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