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Credit Suisse Seeks to Vacate Broker's \$975.5K Deferred Comp Award

by [Jed Horowitz](https://advisorhub.com/team/jed-horowitz/) |
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(Updates with Credit Suisse comments throughout, and corrects to say that Chilton did not win attorneys' fees.)

Credit Suisse has extended its battle with former brokers who are trying to collect deferred compensation in the wake of its 2015 decision to close its U.S. wealth business.

The Swiss bank's U.S. broker-dealer has filed a petition to vacate an almost \$1 million award that a Finra arbitration panel made to New York City broker Nicholas Finn (<https://advisorhub.com/another-credit-suisse-alumnus-wins-deferred-comp-in-arbitration/>) in November.

Finn, who now works at UBS Financial Services, is one of dozens of brokers who have brought claims for unvested deferred pay that they said they should have collected because they were terminated without cause as a result of Credit Suisse's decision to shutter the business. Only two arbitration decisions have been reached to date, both granting deferred pay to the petitioners.

Credit Suisse, which received referral fees for directing its U.S. brokers to Wells Fargo Advisors, has argued that brokers who went to other firms likely negotiated forgivable loans or other payments with their new employers for money left behind.

In its previously unreported filing in New York State Supreme Court on November 26, Credit Suisse Securities (USA) argued that the three arbitrators in the Finn case showed a "manifest disregard of the law" by refusing to reschedule a hearing to accommodate testimony from Philip Vasan, the former head of its U.S. brokerage

business, and by prohibiting “evidence of [Finn’s] negotiations with potential employers.”

Arbitrators also deprived the bank of a fair hearing by allowing a lawyer to challenge Vasan’s credibility based on testimony the executive gave in a separate arbitration, according to the vacate petition. A Boston panel of arbitrators in October awarded \$863,000 to broker Brian Chilton (<https://advisorhub.com/credit-suisse-ordered-to-pay-broker-845k-and-clear-his-record/>), who now works at Morgan Stanley.

Credit Suisse has not challenged the Chilton award, which required the broker to pay an outstanding \$18,700 promissory note balance and some of the bank’s legal fees.

“Put simply, we continue to believe that no one is entitled to recover the same dollar twice, and we will continue to defend our bank against meritless attempts to do so, as we have in many other proceedings where former brokers have abandoned such claims,” said Credit Suisse spokeswoman Karina Byrne.

Courts rarely agree to vacate arbitration decisions, which they view as cost-efficient alternatives to trials.

Lawyers for former Credit Suisse brokers characterized the bank’s recent filing as an attempt to intimidate brokers from making new claims or to pressure them to reach settlements of ongoing claims.

“The only explanation for the vacate petition is that they want people to know they’re going to have spend more time and money fighting this,” said Rogge Dunn, a Dallas employment lawyer who is representing several former Credit Suisse brokers in deferred comp claims. “They are only delaying the inevitable, in my humble opinion, because trying to vacate any arbitration award, much less a FINRA award that doesn’t require a ‘reasoned’ decision, is the longest of long shots.”

Barry Lax, the New York lawyer who represents Finn and also argued the Chilton case, said he introduced emails and other evidence to arbitrators that showed Credit Suisse executives and strategists “totally understood that if they simply honored their contracts and paid everybody their deferred comp they wouldn’t get sued, and also understood that if they breached the contracts and didn’t pay there would be a high litigation risk.”

The bank’s motion to vacate the arbitration award is “frivolous,” he said.

Byrne said that as a matter of practice Credit Suisse does not comment on pending litigation, but noted that neither Finn nor Chilton received the monetary relief they had requested. Finn had sought up to \$1.08 million in compensatory damages and punitive (or liquidity) damages of more than \$2.4 million. Chilton asked for compensatory damages of \$1.9 million to \$3.5 million.

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