

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

Admin. Proc. File No. 3-22477

<p style="text-align:center">In the Matter of the Application of MICHAEL SCOTT BARROWS For Review of Action Taken by FINRA</p>
--

MICHAEL SCOTT BARROWS' OPENING BRIEF

1. The issue in this Appeal is simple, but requires an honest and fresh consideration by the SEC of how to protect the rights of BOTH investors and brokers during the appeal of a FINRA arbitration award. While there is existing precedent in which the rights of investors to pursue recovery during the ongoing appeal of award were deemed paramount, there are NO cases available in which the rights of a broker to maintain his livelihood during the appeal were considered. This is what Mr. Barrows is asking the SEC to do - balance the equities by allowing him to maintain his license during the appellate process, still permitting the investor to maintain recovery actions on assets and income of Mr. Barrows while the appeal proceeds. Simply stated, the position by FINRA that FINRA Rule 9554 results in suspension during appeal is antiquated and punitive without justification.

2. The underlying arbitration was assigned FINRA Case No.: 22-01360 (the "FINRA Arbitration").

3. Petitioner filed an Answer and Affirmative Defenses on or about October 16, 2022.

4. The subject matter of the FINRA Arbitration was alleged wrongdoing relating to purchase of investments by Respondent in an entity known as GWG Holdings, Inc. which filed for bankruptcy protection in April 2022.

5. Respondent asserted a multitude of theories for damages including compensatory, recessionary, benefit of the bargain, lost opportunity, model portfolio, non-economic, and punitive damages relating to investments from the Petitioners.

6. Respondent was represented by Kalju Nekvasil of St. Petersburg, Florida who had applied for and was granted Pro Hac Vice admission in California 37 times between August 26, 2019, and May 19, 2022, with seven additional pending applications from May 31, 2022, to August 1, 2022. Mr. Nekvasil applied for *Pro Hac Vice* admission on August 1, 2022, relating to the underlying matter herein.

7. The arbitrators assigned to hear the case were Arbitrators Marcus, Moriarty and Sarokin. All three arbitrators were assigned by FINRA to serve as “Public Arbitrators,” as defined by FINRA Rule Series 12100(aa) and Arbitrator Marcus was placed on the Panel to serve as the Chairman and rendered the vast majority of all decisions prior to and during the actual hearing of the case.

8. All of the arbitrators had an ongoing duty to disclose their experiences and backgrounds, similar to jurors who are assigned to sit on a jury, and to abide by the decisions they are asked to resolve according to contractual agreement.

9. The arbitration hearing was held between September 11 and 15, 2023, and continued from September 18 - 20, 2023, concluding on September 28, 2023, at the FINRA Los Angeles, California hearing location.

10. The panel rendered a decision granting Respondent compensatory damages of \$1,035,360, as well as interest of \$10,655 and Ordered respondent to pay hearing fees of \$20,700.
11. Petitioner asked The Superior Court of the State of California County of Los Angeles to Vacate the FINRA award and the court denied the request.
12. On November 8, 2024, Barrows requested a hearing with OHO on the basis that he had a pending appeal of the trial court's judgment of confirmation. OHO rejected his request for a hearing.
13. On November 22, 2024, Barrows filed an appeal with the 2nd District Court of Appeal in California, where it remains pending today.
14. On November 15, 2024, FINRA suspended Barrows from associating with any FINRA member due to his failure to comply with the Award.
15. On November 13, 2024, Barrows filed a complaint for declaratory and injunctive relief in the Superior Court of California for the County of Orange and, on November 18, 2024, the court issued a temporary restraining order against FINRA, prohibiting FINRA from initiating or continuing any suspensions against Barrows and Ludovico pursuant to Rule 9554.
16. As a result, on November 18, 2024, FINRA lifted Barrows' November 15, 2024 suspensions pursuant to FINRA Rule 9554.
17. Following the expiration of the temporary restraining order against FINRA, Barrows failed to comply with the Award.

18. On January 24, 2025, FINRA again served Barrows with yet another notice of suspension under Rule 9554.

19. On February 7, 2025, Barrows requested a hearing with OHO stating that his suspension should be stayed due to “the fact that he currently had an active appeal of a motion to vacate in the California Court of Appeals.” OHO this time granted the hearing request.

20. OHO denied the stay of suspension. See Exhibit A attached hereto which summarizes the procedural history set forth above.

21. Mr. Barrows contends that Rule 9554 does not allow for suspension when a FINRA Award is still pending within the court of appeals and asks the SEC to apply the literal wording of 9554, rejecting interpretations that do not address the right of a registered representative to maintain his property in the form of his license pending the resolution by the courts of his appeal.

22. It is a fact that the underlying investor is not prejudiced by the interpretation suggested by Mr. Barrows, and in fact is afforded more protection by the ability to attach recovery to earning by Mr. Barrows in the securities industry.

Respectfully submitted,

RUBINSON LAW

BY: /s/ Seth I. Robinson

SETH I. RUBINSON
5701 Woodway Drive, Ste. 330
Houston, TX 77057
(832) 485-4899 Phone
(866) 626-4292 Facsimile
srubinson@rubinsonlaw.com

CERTIFICATE OF SERVICE

I, Seth I. Robinson, hereby certify that service was completed upon FINRA via email to NAC.CaseFilings@finra.org and Michael.Garawski@finra.org on September 24, 2025.

/s/ Seth I. Robinson
