

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934  
Release No. 83710 / July 25, 2018

Admin. Proc. File No. 3-18283

In the Matter of the Application of  
  
PATRICK H. DOWD  
  
For Review of Action Taken by  
  
FINRA

OPINION OF THE COMMISSION

REGISTERED SECURITIES ASSOCIATION—REVIEW OF FINRA ACTION

Registered securities association barred individual in an expedited proceeding for failing to respond to requests for information. *Held*, application for review is dismissed.

APPEARANCES:

*James C. Poindexter* and *T.A. Delegal, III*, of Delegal Law Offices, P.A., for Patrick H. Dowd.

*Alan Lawhead, Andrew Love* and *Megan Rauch* for FINRA.

Appeal filed: November 14, 2017  
Last brief received: December 12, 2017

Patrick H. Dowd, formerly associated with FINRA member firm Pruco Securities, LLC, seeks review of FINRA action barring him from association with any FINRA member for failing to respond to its requests for information. FINRA requests that we dismiss Dowd's application for review because he failed to exhaust his administrative remedies and because his appeal is untimely. Dowd opposes FINRA's motion. For the reasons explained below, we grant FINRA's motion and dismiss Dowd's application for review.

## I. Background

### A. FINRA requested information from Dowd after his termination from Pruco.

Dowd was associated with Pruco from August 1990 to July 2016. After Dowd's association with Pruco ended, Pruco reported to FINRA that it terminated Dowd for submitting multiple annuity applications containing inaccurate information and falsified signatures. FINRA staff then notified Dowd that it was conducting an investigation to determine whether his conduct had involved "violations of the federal securities laws or FINRA, NASD, NYSE, or MSRB rules" and began requesting information from Dowd pursuant to FINRA Rule 8210.<sup>1</sup>

On August 11 and September 8, 2016, FINRA staff sent Dowd letters requesting a signed statement about Pruco's allegations as well as an explanation of the electronic signatures on the annuity applications; a description of any other complaints regarding his employment received or resolved during the previous three years with Pruco; and copies of all documents relating to the allegations and complaints. FINRA requested responses by August 25 and September 22, 2016, respectively. In these letters, FINRA warned Dowd that failure to respond could result in sanctions—including a bar from associating with a FINRA member firm—and included the investigator's contact information for any questions. Dowd did not respond to either letter.

### B. FINRA suspended and barred Dowd for his failure to respond.

"FINRA rules provide two avenues to enforce compliance with its requests for information. First, FINRA can file a disciplinary complaint alleging a violation of Rule 8210. In that case, the person alleged to have violated Rule 8210 may defend those allegations under the procedures established by FINRA's disciplinary rules. Second, FINRA Rule 9552 'provide[s] a procedural mechanism for FINRA to address' violations of Rule 8210 'more expeditiously than would be possible using the FINRA disciplinary process.'"<sup>2</sup> Thus, "expedited proceedings and disciplinary proceedings are 'two [s]eparate avenues' for addressing Rule 8210 violations."<sup>3</sup> The use of one procedure for addressing Rule 8210 violations does not preclude the use of the other.<sup>4</sup>

On December 22, 2016, FINRA sent Dowd a notice (the "Pre-Suspension Notice") stating that a continued failure to respond would result in a suspension from association with any

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<sup>1</sup> See FINRA Rule 8210(a) (requiring associated persons of FINRA member firms to provide specified information, testimony, and documents "with respect to any matter involved in [a FINRA] investigation, complaint, examination, or proceeding").

<sup>2</sup> *Christopher A. Parris*, Exchange Act Release No. 78669, 2016 WL 4446331, at \*2 (Aug. 24, 2016).

<sup>3</sup> *Destina Mantar*, Exchange Act Release No. 79851, 2017 WL 221653, at \*4 (Jan. 19, 2017) (alteration in original).

<sup>4</sup> See, e.g., *David Kristian Evansen*, Exchange Act Release No. 75531, 2015 WL 4518588 (July 27, 2015) (affirming sanctions imposed in a disciplinary proceeding for a failure to timely respond to a request for information after FINRA vacated a bar imposed in an expedited proceeding upon the receipt of the requested information from the barred individual).

FINRA member pursuant to Rule 9552(a).<sup>5</sup> The Pre-Suspension Notice indicated that he would be suspended from associating with any FINRA member on January 17, 2017 if he failed to provide the requested information by that date. The Pre-Suspension Notice stated that the suspension would not take effect if Dowd took corrective action before January 17, 2017 by complying with the requests. Nonetheless, the Pre-Suspension Notice stated that FINRA could still file a disciplinary action against Dowd for his failure to respond in a timely manner.

The Pre-Suspension Notice also stated that Dowd could prevent the suspension from becoming effective by requesting a hearing under Rule 9552(e).<sup>6</sup> The request for a hearing should include “any and all defenses to the suspension.” The Pre-Suspension Notice explained further that Rule 9552(f) allowed Dowd to request that a suspension be terminated based on full compliance with the requests for information,<sup>7</sup> but that once a suspension was imposed a failure to respond by March 27, 2017 would trigger an automatic bar.<sup>8</sup>

Dowd did not provide the requested information, request a hearing, or otherwise respond to the Pre-Suspension Notice. On January 17, 2017, FINRA sent Dowd a notice (the “Suspension Notice”) stating that he had been suspended, reiterating the process for requesting termination of the suspension, and warning that a failure to respond pursuant to its procedures would result in an automatic bar. Dowd again did not respond. On March 27, 2017, FINRA sent another notice (the “Bar Notice”) informing Dowd that he had been barred and advising him that he was required to file any appeal with the Commission within 30 days of receiving the notice.

FINRA sent each of these notices, as well as each of the earlier Rule 8210 requests, by certified and first-class mail to Dowd’s address as reflected in the Central Registration

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<sup>5</sup> See FINRA Rule 9552(a) (“If a . . . person associated with a member . . . fails to provide any information, report, material, data, or testimony requested or required to be filed pursuant to the FINRA By-Laws or FINRA rules, . . . FINRA staff may provide written notice to such . . . person specifying the nature of the failure and stating that the failure to take corrective action within 21 days after service of the notice will result in suspension of membership or of association of the person with any member.”).

<sup>6</sup> See FINRA Rule 9552(e) (“A member or person served with a notice under this Rule may file with the Office of Hearing Officers a written request for a hearing pursuant to Rule 9559. A request for a hearing shall be made before the effective date of the notice . . . . A request for a hearing must set forth with specificity any and all defenses to the FINRA action.”).

<sup>7</sup> See FINRA Rule 9552(f) (“A member or person subject to a suspension pursuant to this Rule may file a written request for termination of the suspension on the ground of full compliance with the notice or decision . . . . The head of the appropriate department or office may grant relief for good cause shown.”).

<sup>8</sup> See FINRA Rule 9552(h) (“A member or person who is suspended under this Rule and fails to request termination of the suspension within three months of issuance of the original notice of suspension will automatically be expelled or barred.”).

Depository (“CRD”).<sup>9</sup> Before sending each of the notices, FINRA conducted public record searches to confirm that the CRD address was Dowd’s current address. There is no evidence that any of the first-class mailings were returned. Nor is there evidence that any of the certified mailings were returned except for the very last mailing. The certified mailing of the Bar Notice was unclaimed and returned to FINRA more than a month after FINRA sent it.

### C. Dowd filed an application for review with the Commission.

On November 7, 2017, more than seven months after FINRA sent the Bar Notice, Dowd filed an application for review with the Commission. In his application, he acknowledged that he received FINRA’s August 11, 2016 request for information by certified mail at his CRD address and that FINRA “provided [him] a notification” of the Bar Notice “on or about March 27, 2017.” Dowd did not deny that he received the other requests and notices from FINRA or argue that he moved from the CRD address FINRA used. Nor did Dowd claim that he had responded to any of the requests or notices. Instead, Dowd claimed that he “did not possess the information requested by FINRA” and did not receive notice of the 30-day deadline for filing an appeal of his bar with the Commission.

## II. Analysis

We dismiss Dowd’s application for review because Dowd failed to exhaust his administrative remedies before FINRA and because his application is untimely.

### A. Dowd failed to exhaust his administrative remedies before FINRA.

“Exhaustion of administrative remedies is a general prerequisite to judicial review of any administrative action.”<sup>10</sup> The “proper exhaustion of administrative remedies . . . ‘means using all steps that the agency holds out, and doing so *properly* (so that the agency addresses the issues on the merits).’”<sup>11</sup> “[A]s a general rule . . . courts should not topple over administrative decisions unless the administrative body not only has erred, *but has erred against objection made at the time appropriate under its practice.*”<sup>12</sup> “Proper exhaustion demands compliance with an agency’s deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings.”<sup>13</sup>

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<sup>9</sup> See Investor Publication, Protect Your Money: Check Out Brokers and Investment Advisers, available at <http://www.sec.gov/investor/brokers.htm> (“The Central Registration Depository (CRD) is a computerized database that contains information about most brokers, their representatives, and the firms they work for.”).

<sup>10</sup> *Hedley v. United States*, 594 F.2d 1043, 1044 (5th Cir. 1979).

<sup>11</sup> *Woodford v. Ngo*, 548 U.S. 81, 90 (2006) (emphasis in original).

<sup>12</sup> *Id.* (alteration, omission, and emphasis in original).

<sup>13</sup> *Id.* at 90-91.

As a result, an applicant who disregards the procedural mechanisms for challenging a sanction before an agency has failed to exhaust administrative remedies.<sup>14</sup>

“The general rule requiring exhaustion of administrative remedies as a prerequisite to judicial relief applies with equal if not greater force to the administration of voluntary associations.”<sup>15</sup> The requirement that administrative remedies be exhausted therefore applies to SROs. “Were SRO members, or former SRO members, free to bring their SRO-related grievances before the SEC without first exhausting SRO remedies, the self-regulatory function of SROs could be compromised.”<sup>16</sup> The exhaustion requirement “promotes the efficient resolution of disciplinary disputes between SROs and their members and is in harmony with Congress’s delegation of authority to SROs to settle, in the first instance, disputes relating to their operations.”<sup>17</sup> In so doing, the requirement facilitates an orderly review of FINRA actions by “promot[ing] the development of a record” by FINRA “in a forum particularly suited to create it, upon which the Commission and, subsequently, the courts can more effectively conduct their review.”<sup>18</sup> Accordingly, we have held consistently that we will not consider an application for review of FINRA action “if that applicant failed to exhaust FINRA’s procedures for contesting the sanction” before seeking Commission review.<sup>19</sup>

We find that Dowd had the opportunity to avail himself of FINRA’s administrative process for challenging its actions and failed to do so. The Pre-Suspension Notice explained his options for challenging FINRA’s actions under Rule 9552. Yet Dowd chose not to: (1) respond to the Rule 8210 requests; (2) request a hearing to explain his purported inability to respond or offer any other defenses; or (3) request termination of his suspension. His only response was to file an application for review with the Commission after he was barred. We have held repeatedly that applicants who fail to exhaust administrative remedies before FINRA thereby forfeit any future challenge to FINRA’s actions before the Commission.<sup>20</sup> So too here.<sup>21</sup>

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<sup>14</sup> See, e.g., *Dawson Farms, LLC v. Farm Serv. Agency*, 504 F.3d 592, 602 (5th Cir. 2007) (“Because Dawson Farms never appealed the lower agencies’ decisions to the NAD, and any such appeals now would be untimely, Dawson Farms failed to exhaust its administrative remedies.”).

<sup>15</sup> *Freeman v. Sports Car Club of Am., Inc.*, 51 F.3d 1358, 1365 (7th Cir. 1995) (applying exhaustion requirement to the revocation of race car driver’s racing license).

<sup>16</sup> *MFS Sec. Corp. v. SEC*, 380 F.3d 611, 621 (2d Cir. 2004) (affirming the application of exhaustion requirements in Commission review of SRO actions).

<sup>17</sup> *Id.* at 622.

<sup>18</sup> *Id.* at 621.

<sup>19</sup> *Caryl Trewyn Lenahan*, Exchange Act Release No. 73146, 2014 WL 4656403, at \*2 & n.5 (Sept. 19, 2014) (citing cases).

<sup>20</sup> E.g., *David Richard Kerr III*, Exchange Act Release No. 79744, 2017 WL 56621, at \*4 (Jan. 5, 2017); *Gilbert Torres Martinez*, Exchange Act Release No. 69405, 2013 WL 1683913, at

Dowd argues that his purported inability to access documents FINRA requested justified his failure to respond. But we do not consider the reasons for a failure to respond if they were not timely presented in the first instance to FINRA through its administrative process.<sup>22</sup> And there is no evidence that Dowd made good faith attempts to contact Pruco in connection with FINRA's requests or brought such attempts to FINRA's attention before it barred him.

In any case, Dowd's purported difficulties in securing Pruco files do not explain or excuse his complete failure to respond to FINRA's other requests for a signed statement about the annuity applications that triggered his termination, an explanation of the electronic signatures on those applications, or a description of any customer complaints. Nor do such difficulties explain or excuse his failure to contact FINRA to explain why he had not responded. As we have stated, persons who cannot "readily provide . . . information" that FINRA requests nevertheless have "an obligation to explain, as completely as possible," their efforts to FINRA.<sup>23</sup>

Similarly unpersuasive is Dowd's suggestion that FINRA would have disregarded any responses he provided absent the Pruco files. Although Dowd cites the statement in FINRA's request that Dowd was required to respond to the investigation "fully, promptly and without qualification," FINRA did not say that it would disregard good faith attempts to access relevant documents. Rather, the letter expressly instructed Dowd to identify documents that he was not providing and to "state the basis for [his] doing so." FINRA also did not suggest that any such explanation would inevitably result in a bar. To the contrary, it invited Dowd to contact the investigator with questions and warned of possible (not inevitable) consequences for deficient

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\*3 (Apr. 18, 2013) (discussing the Commission's "well-established precedent" in dismissing appeals where the applicant failed to exhaust his administrative remedies before FINRA).

<sup>21</sup> See, e.g., *Norman Chen*, Exchange Act Release No. 65345, 2011 WL 4336720, at \*1 (Sept. 16, 2011) (dismissing application for review for failing to exhaust administrative remedies after applicant was barred for not providing signed statements addressing allegations in response to Rule 8210 request).

<sup>22</sup> See *Jonathan Roth Ellis*, Exchange Act Release No. 80312, 2017 WL 1103694, at \*4 (Mar. 24, 2017) (stating that applicant's "arguments go to the merits of his violation of FINRA Rule 8210 . . . and we do not consider them because he did not timely present them in the first instance to FINRA through its administrative process"); *Gregory S. Profeta*, Exchange Act Release No. 62055, 2010 WL 1840609, at \*3 (May 6, 2010) (refusing to consider applicant's "reasons for not responding to FINRA's letters" because the applicant failed to raise those reasons with FINRA and "cannot complain at this stage about the consequence of his choice").

<sup>23</sup> *Rooney A. Sahai*, Exchange Act Release No. 51549, 2005 WL 883705, at \*8 (Apr. 15, 2005); *accord N. Woodward Fin. Corp.*, Exchange Act Release No. 74913, 2015 WL 2151765, at \*7 (May 8, 2015) (stating that "Applicants neither attempted to obtain the information that FINRA sought nor provided any meaningful explanation to FINRA as to why Applicants could not obtain the information"); *Perpetual Sec., Inc.*, Exchange Act Release No. 56613, 2007 WL 2892696, at \*9 (Oct. 4, 2007) ("Huang failed to provide any evidence of her efforts to obtain the requested documents or of the telephone company's refusal to provide the information.").

responses and explanations. FINRA barred Dowd not because it found his attempts to respond deficient but because Dowd failed to offer any response or explanation at all.<sup>24</sup>

Dowd further claims that his failure to exhaust administrative remedies under Rule 9552 should be excused because requesting a hearing to explain his actions would have been “a vain or futile act.” According to Dowd, it was inevitable that any FINRA hearing would have resulted in a bar and the futility of requesting a hearing justifies his decision to present his defenses for the first time on appeal. But Dowd fails to substantiate his claim that a bar was inevitable. Indeed, FINRA has stated expressly that in considering the proper sanction for a failure to respond to information requests it will consider “[w]hether the respondent thoroughly explains valid reason(s) for the deficiencies in the response.”<sup>25</sup> In bypassing FINRA’s process for explaining his conduct, Dowd prevented FINRA from considering his defenses and from developing a record from which we could review the merits of those defenses.

Although Dowd cites several cases that recognize a futility exception to the exhaustion requirement, none of those cases support applying the exception here.<sup>26</sup> Dowd himself recognizes that in *Marine Mammal Conservancy, Inc. v. Department of Agriculture*,<sup>27</sup> the D.C. Circuit held that it “must appear that pursuing administrative remedies would have been ‘clearly useless,’ that the ultimate denial of relief was a ‘certainty.’”<sup>28</sup> Indeed, the court in that case rejected a futility defense because “it [was] not outside the realm of possibility” that the hearing officer would have considered a challenge to the proposed action if presented with “persuasive arguments.”<sup>29</sup> So too here. “Doubt about the success” of a challenge in an administrative forum “is no reason to excuse a litigant’s failure to make the attempt.”<sup>30</sup>

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<sup>24</sup> See *Chen*, 2011 WL 4336720, at \*3 (dismissing applicant’s appeal due to a failure to exhaust administrative remedies where applicant’s “conduct ‘amounted to a complete failure to respond and [FINRA] acted consistently with the purposes of the Exchange Act in imposing the bar’ against him”).

<sup>25</sup> FINRA Sanction Guidelines at 33 (Apr. 2017 ed.).

<sup>26</sup> See *McCarthy v. Madigan*, 503 U.S. 140, 148-149 (1992) (recognizing but not invoking a futility exception); *Honig v. Doe*, 484 U.S. 305, 327 (1988) (recognizing a futility exception but stating that the burden “to demonstrate the futility or inadequacy of administrative review” rests on the party seeking to avoid the exhaustion requirement); *Randolph-Sheppard Vendors of Am. v. Weinberger*, 795 F.2d 90, 105-106 (D.C. Cir. 1986) (recognizing a futility exception but stating that it applies only where the agency “has indicated that it does not have jurisdiction” or “has evidenced a strong stand on the issue in question and an unwillingness to reconsider the issue”); *Ross v. United States*, 460 F. Supp. 2d 139, 147 (D.D.C. 2006) (finding that exceptions to the exhaustion requirement are inapplicable when exhaustion is mandated by statute).

<sup>27</sup> 134 F.3d 409 (D.C. Cir. 1998).

<sup>28</sup> *Id.* at 413.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

As we have held previously, an applicant’s “purported need to secure information to respond to FINRA does not excuse his failure to exhaust his administrative remedies” before appealing to the Commission.<sup>31</sup> Dowd’s failure to respond to FINRA in any manner stymied FINRA’s investigation, bypassed FINRA’s process for hearing any of his defenses, and prevented FINRA from applying its expertise regarding its rules to the relevant facts of this case. Given his failure to respond to the requests for information or to take advantage of the available FINRA avenues for explaining his actions and avoiding imposition of the bar, we find that Dowd forfeited his right to challenge the bar before us.<sup>32</sup>

**B. Dowd’s application for review is untimely.**

Dowd’s untimely filing of his application for review with the Commission is a separate and independent basis for dismissing his appeal. Under Section 19(d) of the Securities Exchange Act of 1934, a person who wishes to appeal a FINRA action must file an appeal “within 30 days after the date that such notice was . . . received by [the] aggrieved person.”<sup>33</sup> Dowd’s application for review was untimely because he sent it more than 30 days after he received notice of the bar. Under FINRA Rule 9134(b)(3), “[s]ervice by mail is complete upon mailing.”<sup>34</sup> By mailing the Bar Notice to Dowd’s CRD address on March 27, 2017, FINRA provided him with notice of the action and thereby “started the running of the appeal period.”<sup>35</sup> Under our Rules of Practice, the appeal period began running on March 30, 2017, three days after the mailing, and ended on May 1, 2017.<sup>36</sup> As Dowd concedes in his application for review, FINRA provided him with the Bar Notice “on or about March 27, 2017.” The Bar Notice itself stated that Dowd had 30 days to appeal. Dowd filed his appeal on November 7, 2017, about six months after the deadline lapsed.

The Commission will not extend the 30-day period for filing an application for review absent a showing of extraordinary circumstances.<sup>37</sup> Dowd has not demonstrated any

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<sup>31</sup> *Kerr*, 2017 WL 56621, at \*5.

<sup>32</sup> *See, e.g., Aliza A. Manzella*, Exchange Act Release No. 77084, 2016 WL 489353, at \*4 (Feb. 8, 2016).

<sup>33</sup> 15 U.S.C. § 78s(d); *see also* 17 C.F.R. § 201.420(b) (“[A]n applicant must file an application for review with the Commission within 30 days after the notice of the determination is filed with the Commission and received by the aggrieved person applying for review.”).

<sup>34</sup> FINRA Rule 9134(b)(3).

<sup>35</sup> *Manzella*, 2016 WL 489353, at \*4.

<sup>36</sup> Rule of Practice 160(b), 17 C.F.R. § 201.160(b) (stating that “[i]f service is made by mail, three days shall be added to the prescribed period for response . . .”); Rule of Practice 160(a), 17 C.F.R. § 201.160(a) (explaining that if a deadline calculation results in a Saturday, the deadline will be the next date that is not a Saturday, Sunday, or Federal legal holiday).

<sup>37</sup> Rule of Practice 420(b), 17 C.F.R. 201.420(b); *see also Lenahan*, 2014 WL 4656403, at \*3 (stating that “[o]nly in extraordinary circumstances does the Commission provide an exception for late filings . . .”); *accord Kalid Morgan Jones*, Exchange Act Release No. 80635,



extraordinary circumstances justifying an extension of the deadline. We find no merit in Dowd’s claim that there was “a lack of record evidence to show that [Dowd] received the Bar Notice.” Although the certified mailing of the notice was subsequently returned to FINRA, Dowd does not dispute that he actually received a duplicate copy of the Bar Notice by first-class mail. Nor does he dispute that he received first-class mailings and certified mailings containing the requests for information, the Pre-Suspension Notice, and the Suspension Notice. FINRA sent all these requests and notices to the same address, and Dowd does not argue that he moved from that address or was not living there at the time. Dowd cannot escape the consequences of the Bar Notice by failing to claim or “refusing to accept” the certified mailing.<sup>38</sup>

No more persuasive is Dowd’s contention that FINRA had an obligation to take additional “steps to ensure” service. It is well established that the burden is on a formerly associated person to keep his CRD address current and to receive mail at that address.<sup>39</sup> Under Rule 9134(b)(1), if FINRA has “actual knowledge” that the CRD address is out of date it must also send notices to the “last known residential address.”<sup>40</sup> Here, there is no evidence that FINRA had actual knowledge that a more current address existed. To the contrary, it is undisputed that Dowd received mail sent to the CRD address. FINRA also conducted repeated public record searches to confirm that the CRD address was his current address before sending the notices of his suspension and bar. FINRA complied with its rules regarding service.

The cases that Dowd cites to support his contention that we should excuse his failure to comply with the 30-day deadline for filing an appeal are inapposite. In *Kevin M. Murphy*, we remanded to FINRA because it was unclear whether “FINRA complied with its service rules” since FINRA knew before serving a pre-suspension notice that all of the requests for information sent to the applicant’s CRD address had been returned to FINRA and because a public records search conducted before a suspension notice was sent to the CRD address revealed a different address.<sup>41</sup> Such circumstances are not present here. In *Destina M. Mantar*, we remanded to FINRA because the applicant “may have lacked actual notice of FINRA’s requests for information until the date the bar became effective” and because the applicant “responded to FINRA’s requests two weeks later—before filing a timely appeal with the Commission.”<sup>42</sup> Again, those circumstances are not present in this case. Unlike any of the cases that Dowd cites,

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2017 WL 1862331, at \*5-6 (May 9, 2017) (dismissing for failing to exhaust administrative remedies and for untimeliness).

<sup>38</sup> *Manzella*, 2016 WL 489353, at \*3.

<sup>39</sup> *Id.* at \*3 & n.15; *see also NASD Reminds Registered Persons of Continuing Obligation to Update NASD Records*, NASD Notice to Members 97-31, 1997 WL 1909798, at \*2 (May 1997) (reminding associated persons of their obligation to keep their address current even after their association ends and that failure to do so can result in sanctions).

<sup>40</sup> FINRA Rule 9134(b)(1).

<sup>41</sup> Exchange Act Release No. 79016, 2016 WL 5571633, at \*3-4 (Sept. 30, 2016).

<sup>42</sup> Exchange Act Release No. 79851, 2017 WL 221653, at \*5 (Jan. 19, 2017).

the record establishes that Dowd received FINRA's requests for information, that he received the Pre-Suspension and Suspension Notices, and that FINRA served the Bar Notice properly.

Accordingly, we find no extraordinary circumstances justifying Dowd's untimely application for review. As we have observed, "strict compliance with filing deadlines facilitates finality and encourages parties to act timely in seeking relief. Unmet deadlines may cut off substantive rights to review, but this is their function."<sup>43</sup> Dowd provides no reason to deviate from this rule here. The untimeliness of his application warrants dismissal.

An appropriate order will issue.<sup>44</sup>

By the Commission (Chairman CLAYTON and Commissioners STEIN, JACKSON and PEIRCE).

Brent J. Fields  
Secretary

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<sup>43</sup> *Jones*, 2017 WL 1862331, at \*6 (internal quotations omitted).

<sup>44</sup> We have considered all of the parties' contentions. We have rejected or sustained them to the extent that they are inconsistent or in accord with the views expressed in this opinion.

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
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PATRICK H. DOWD  
  
For Review of Action Taken by  
  
FINRA

ORDER DISMISSING APPEAL OF ACTION TAKEN BY REGISTERED SECURITIES  
ASSOCIATION

On the basis of the Commission's opinion issued this day, it is  
ORDERED that the appeal filed by Patrick H. Dowd is dismissed.

By the Commission.

Brent J. Fields  
Secretary