

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84808 / December 12, 2018

Admin. Proc. File No. 3-18553

In the Matter of the Application of

Michael Patrick Nanto

For Review of Action Taken by

FINRA

ORDER DIRECTING SERVICE OF RECORD AND GRANTING EXTENSION OF TIME

On June 19, 2018, Michael Patrick Nanto filed an application for review of FINRA action barring him from associating with any FINRA member firm in any capacity. FINRA predicated the bar on Nanto's failure to respond to requests for information issued pursuant to FINRA Rule 8210. In his application for review, Nanto alleged that FINRA had not "acted fairly or in accordance with their own rules" in handling his case, and that inconsistent communication with FINRA had prevented him from understanding how to comply with various requests.¹

After the Commission acknowledged receipt of the application for review, FINRA filed the certified record with the Commission on July 3, 2018, and served the index on Nanto.² The Commission issued a briefing schedule on July 24, 2018. On August 7, 2018, FINRA moved to dismiss Nanto's application on the ground that Nanto failed to exhaust all administrative remedies before appealing to the Commission. FINRA also moved to stay the briefing schedule.

On August 14, 2018, Nanto wrote to the Commission acknowledging that he had "received a copy of FINRA's response" but stating that he did not "have copies of everything [FINRA] said they sent, have sent, or I have sent." Nanto, proceeding *pro se*, requested "[a] copy of all documents sent or received from FINRA or myself" as well as where to find "the

¹ *Mike Nanto*, Admin. Proc. File No. 3-18553 (June 19, 2018) at 5, available at <https://www.sec.gov/litigation/apdocuments/3-18553-event-1.pdf> (application for review)

² See Rule of Practice 420(e), 17 C.F.R. § 201.420(e) (requiring self-regulatory organization to serve one copy of the index to the certified record upon each party).

rules or procedures for the Securities and Exchange Commission[] appeal process.” Nanto requested these materials “in order for me to respond effectively” to FINRA’s motion.³

We find it appropriate under the circumstances to direct FINRA to furnish a complete copy of the certified record to Nanto.⁴ Any relevant documents should be in the certified record, and Nanto must have access to the documents FINRA relied on in imposing the bar to respond to its motion to dismiss. Providing Nanto with the record will remove any uncertainty regarding whether Nanto has copies of the relevant materials and will serve the interests of justice without imposing an undue burden on FINRA.⁵

As to Nanto’s request for the rules or procedures governing appeals to the Commission, we direct him to our Rules of Practice at <https://www.sec.gov/about/rules-of-practice-2018.pdf>. We also call Nanto’s attention to footnote 4 of our briefing schedule, which references the rules that govern the form, service, content, and length requirements for appeals briefs.⁶

Finally, it appears appropriate to extend the time for Nanto to file a response to FINRA’s motion to dismiss and to postpone the obligation of the parties to file their briefs on the merits.

Accordingly, it is ORDERED that FINRA serve one copy of the complete certified record on Nanto within 14 days. Nanto shall have 30 days after service of the record to respond to FINRA’s motion to dismiss, and FINRA shall file any reply within 14 days of Nanto’s response. It is further ORDERED that, until the Commission acts on FINRA’s motion to dismiss, the time to file the briefs contemplated by our prior briefing schedule is postponed.

By the Commission.

Brent J. Fields
Secretary

³ On October 5, 2018, FINRA moved to dismiss Nanto’s application for review on the ground that Nanto failed to respond to its prior motion to dismiss. In a footnote to its October 5, 2018 motion, FINRA acknowledges Nanto’s August 14, 2018 letter to the Commission but does not otherwise address it. FINRA’s second motion to dismiss, dated October 5, 2018, is denied.

⁴ See Rule of Practice 100(c), 17 C.F.R. § 201.100(c) (stating that alternate procedures may be applied when the Commission determines “that to do so would serve the interests of justice and not result in prejudice to the parties to the proceeding”).

⁵ This order expresses no view as to the merits of FINRA’s motion or whether Nanto has previously received any documents in the record.

⁶ See *Mike Nanto*, Admin. Proc. File No. 3-18553 (July 24, 2018) at 2, available at <https://www.sec.gov/litigation/opinions/2018/34-83698.pdf> (order scheduling briefs).