

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 89612 / August 19, 2020

Admin. Proc. File No. 3-19786

In the Matter of the Application of

MAURICE JAMES ACRICHE

For Review of Action Taken by

FINRA

ORDER SCHEDULING BRIEFS

Maurice James Acriche filed an application for review of FINRA action denying his request to use FINRA’s arbitration forum to determine whether to expunge from his Central Registration Depository records information about a customer dispute. Acriche filed a claim against Lehman Brothers, Inc., seeking to expunge information about disputes brought by Acriche’s customers. FINRA notified him that the matters were not eligible for arbitration because Lehman had filed for bankruptcy protection and all claims against it, including the arbitration, are stayed while the bankruptcy case is pending.

FINRA has moved to consolidate this case with the application for review filed by Donald A. Wojnowski, Admin. Proc. File No. 3-19013, “for purposes of deciding whether the Commission has jurisdiction to hear the appeal.” Like Acriche, it appears that FINRA denied Wojnowski’s request to use the arbitration forum because he had named his former firm E.F. Hutton, to which Lehman is now the successor in interest. FINRA represents that Acriche consents to its motion to consolidate.

As the Commission has jurisdiction over this appeal, the parties should address the merits of this proceeding.¹ In addition to any other issues the parties find relevant to the Commission’s

¹ See *Consolidated Arbitration Applications*, Exchange Act Release No. 89495, 2020 WL 4569083 (Aug. 6, 2020) (holding that the FINRA action Acriche challenges here—denying a request to use FINRA’s arbitration forum on the ground that an expungement claim is ineligible for arbitration—is a prohibition of access to SRO services for which the Commission has jurisdiction under Exchange Act Section 19(d)(2)). This order expresses no view on the merits of Acriche’s appeal.

review under Section 19(f) of the Securities Exchange Act of 1934,² the Commission would benefit from briefing on the following issues:

- What were FINRA’s grounds for determining that Acriche’s claim was ineligible for arbitration, and was that denial consistent with FINRA’s rules?
- How, if at all, does FINRA’s issuance of its denial letter after Wojnowski filed his application for review—and FINRA’s motion to adduce that letter as evidence in *Wojnowski*—affect whether there are sufficient common questions of law or fact so as to warrant consolidation of the two cases?

Accordingly, it is ORDERED that Acriche may file a brief, not to exceed 14,000 words, addressing the issues set forth above by September 18, 2020. FINRA may file a response brief, not to exceed 14,000 words, by October 19, 2020. Acriche may file a reply brief, not to exceed 7,000 words, by November 2, 2020. No briefs in addition to those specified above may be filed without leave of the Commission.³

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman
Secretary

² 15 U.S.C. § 78s(f).

³ Attention is called to Rules of Practice 150-153, 17 C.F.R. § 201.150-153, with respect to form and service, as well as the Commission’s March 18, 2020 order regarding the filing and service of papers, which provides that pending further order of the Commission parties to the extent possible shall submit all filings electronically at apfilings@sec.gov. See *Pending Administrative Proceedings*, Exchange Act Release No. 88415, <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.