



Financial Industry Regulatory Authority

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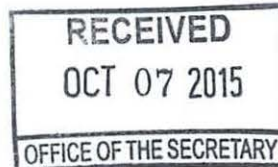
Lisa Jones Toms  
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Direct: (202) 728-8044  
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October 7, 2015

**VIA MESSENGER**

Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090



**RE: In the Matter of the Application of Aliza Ann Manzella**  
**Administrative Proceeding No. 3-16814**

Dear Mr. Fields:

Enclosed please find the original and three copies of the FINRA's Motion to Dismiss Manzella's Application for Review and to Stay the Briefing Schedule in the above-captioned matter.

Please contact me at (202) 728-8044 if you have any questions.

Very truly yours,

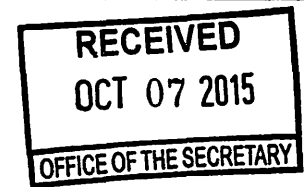
A handwritten signature in blue ink, appearing to read "Lisa Jones Toms". The signature is stylized and includes a long horizontal flourish at the end.

Lisa Jones Toms

cc: Aliza Ann Manzella  
Melanie Campbell

**BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC**

In the Matter of the Application of  
Aliza Ann Manzella  
For Review of Disciplinary Action Taken by  
Financial Industry Regulatory Authority  
File No. 3-16814



**FINRA'S MOTION TO DISMISS MANZELLA'S APPLICATION FOR REVIEW AND  
TO STAY BRIEFING SCHEDULE**

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October 7, 2015

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**BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC**

In the Matter of the Application of  
  
Aliza Ann Manzella  
  
For Review of Disciplinary Action Taken by  
  
Financial Industry Regulatory Authority  
  
File No. 3-16814

**FINRA'S MOTION TO DISMISS MANZELLA'S APPLICATION FOR REVIEW AND  
TO STAY BRIEFING SCHEDULE**

**I. INTRODUCTION**

The Financial Industry Regulatory Authority ("FINRA") moves to dismiss the application for review filed by Aliza Ann Manzella ("Manzella") dated September 3, 2015. Manzella repeatedly failed to respond to FINRA's requests for information and its notices of proceedings against her. The Commission should dismiss this application for two independent reasons. First, Manzella failed to exhaust her administrative remedies. FINRA sent and Manzella received a series of letters that warned her that she would be suspended and eventually barred unless she provided FINRA with the information it had requested. She was also advised by FINRA staff of the consequences of not responding to FINRA's requests. Admitting that she had no intention on responding, Manzella ignored FINRA's numerous notices. She did not provide FINRA with any requested information and did not contest her impending bar. By failing to request a hearing before FINRA or seek reinstatement based on full compliance, Manzella forfeited her right to appeal this action to the Commission.

Second, Manzella’s application for review is untimely. Manzella filed this appeal over ten months after the 30-day appeal deadline expired. FINRA barred Manzella from associating with any FINRA firm in October 2014. The Commission should follow its previous decisions and dismiss Manzella’s application for review.<sup>1</sup>

## **II. PROCEDURAL AND FACTUAL BACKGROUND**

From January 25 to March 27, 2014, Manzella was associated with Fifth Third Securities, Inc. (“Fifth Third Securities” or “Firm”), a FINRA member firm. The Firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) reporting that, as a registered employee of Fifth Third Bank—the Firm’s parent company—Manzella was terminated for a “violation of bank policy” when she “altered bank customer documents without the customer’s written consent and notarized the signature of an individual who was not present.” Upon learning of Manzella’s termination, FINRA initiated an investigation to determine whether Manzella violated FINRA rules.

### **A. The April 24, 2014 Request for Information**

On April 24, 2014, Jessica Schaufert, a FINRA investigator, sent Manzella a letter requesting information pursuant to FINRA Rule 8210.<sup>2</sup> (RP 1-2.)<sup>3</sup> The letter sought information

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<sup>1</sup> Pursuant to Commission Rule of Practice 161, FINRA requests that the Commission stay issuance of a briefing schedule in this matter while this motion is pending. 17 C.F.R. § 201.161 The Commission should first evaluate the dispositive arguments that Manzella’s appeal should be dismissed on procedural grounds before it reaches the underlying substance of this appeal.

<sup>2</sup> FINRA Rule 8210 provides that FINRA staff has the right to require members, persons associated with a member, and other persons subject to FINRA’s jurisdiction “to provide information orally, in writing, or electronically . . . with respect to any matter involved” in an investigation, complaint, examination or proceeding. FINRA Rule 8210(a)(1).

<sup>3</sup> “RP \_\_\_” refers to the page numbers in the certified record filed by FINRA on September 22, 2015.

concerning the allegations of wrongdoing related to Manzella's termination, and asked her to provide a signed statement responding to the allegations, and copies of correspondence and memoranda related to the matter. The letter further asked Manzella to confirm whether there were any complaints regarding her employment at the Firm that were open or resolved within the previous three years of the date of her termination, and if so, to provide additional documentation. (RP 1-2.) The letter requested Manzella to provide a written response to FINRA by May 8, 2014. (RP 1-2.) The letter informed Manzella that, among other things, she was obligated to respond "fully, promptly, and without qualification" to FINRA's request, and warned that "any failure on [her] part to satisfy these obligations could expose [her] to sanctions, including a permanent bar from the securities industry." (RP 1-2.)

Schauffert sent the letter by certified and first-class mail to Manzella's address of record as contained in the Central Registration Depository ("CRD"<sup>®</sup>), 80 W Cedar Ridge Road, Unit B, Lake Barrington, IL 60010 (the "CRD Address"). (RP 1.) The return receipt showed that the certified mailing was returned as "unclaimed." (RP 4.) The U.S. Postal Service did not return the first-class mailing. Manzella did not respond to FINRA's Rule 8210 request.

#### **B. The May 14, 2014 Request for Information**

On May 14, 2014, Manzella made a second written request pursuant to FINRA Rule 8210 for the information. The second request also included a copy of the April 24, 2014 Rule 8210 request letter. (RP 5.) Schauffert sent the letter to Manzella by certified and first-class mail to the CRD Address, and set a response deadline of May 28, 2014. (RP 5.) The certified letter was returned as "unclaimed." (RP 7.) The U.S. Postal Service did not return the first-class letter. Again, Manzella did not respond to FINRA's May 14, 2014 letter.



### C. The July 25, 2014 Pre-Suspension Notice

After Manzella failed to respond to the two requests for information, FINRA's Department of Enforcement ("Enforcement") sought to suspend Manzella from associating with any FINRA firm in an expedited proceeding. *See* FINRA Rule 9552(a).<sup>4</sup> On July 25, 2014, Sandra J. Harris ("Harris"), Senior Director, Policy & Expedited Proceedings for Enforcement warned Manzella in a letter ("Pre-Suspension Notice") that FINRA intended to suspend her on August 18, 2014 for her failure to respond to the requests for information.<sup>5</sup> (RP 11.)

The Pre-Suspension Notice stated that Manzella could avoid imposition of the suspension if she took corrective action by complying with the information requests before the suspension date of August 18, 2014. (RP 11.) The Pre-Suspension Notice explained that Manzella had the opportunity to request a hearing pursuant to FINRA Rule 9552(e), which, if made before the suspension date, would stay the effective date of any suspension.<sup>6</sup> (RP 11.) The Pre-Suspension Notice further explained that Manzella could seek reinstatement during her suspension, and stressed that if she failed to request termination of the suspension within three months, she would be automatically barred on October 28, 2014. (RP 12.)

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<sup>4</sup> FINRA Rule 9552(a) states that "[i]f a member, person associated with a member or person subject to FINRA's jurisdiction 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, or fails to keep its membership application or supporting documents current, FINRA staff may provide written notice to such member or 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>5</sup> The Pre-Suspension Notice also included copies of the April 24, 2014 and May 14, 2014 requests for information. (RP 13-15.)

<sup>6</sup> The Pre-Suspension Notice provided Manzella with the address of FINRA's Office of Hearing Officers where she could direct a request for a hearing. (RP 11.)

FINRA sent the Pre-Suspension Notice to Manzella's CRD Address by certified and first-class mail.<sup>7</sup> (RP 11.) The certified mail receipt indicated that the letter was returned as "refused." (RP 16.) The first-class letter was not returned. Manzella did not respond in writing to the Pre-Suspension Notice, and she did not answer FINRA's outstanding requests for information.

**D. The August 1, 2014 Telephone Call from Manzella**

On August 1, 2014, Harris received a voice message from Manzella, who requested a return phone call. (See Declaration of Sandra J. Harris, RP 69-72.) Harris returned Manzella's call on August 4, 2014, and spoke with Manzella several minutes later to discuss her proceeding. Harris states that "[d]uring our telephone conversation, [Manzella] asked what she needed to do with regard to the Rule 9552 proceeding" – which indicates that Manzella received the Pre-Suspension Notice. (RP 69.)

In response, Harris explained the process to Manzella. "I directed her to the Notice of Suspension letter and informed her that if she did not respond to the Rule 8210 request letters by August 18, 2014, she would be suspended from associating with any FINRA member in any capacity." (RP 69). Harris further explained to Manzella that "if she did not respond by October 28, 2014, she would be barred from FINRA association in any capacity." (RP 69-70.) According to Harris: "Ms. Manzella informed me that she did not intend to respond. She stated that she wanted to get married and have children." (RP 70.)

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<sup>7</sup> A public records database in LexisNexis confirmed that, as of July 24, 2014, Manzella's current mailing address was the CRD address to which Harris sent the Pre-Suspension Notice. (RP 9.)

**E. The August 18, 2014 Suspension Notice**

On August 18, 2014, Harris, on behalf of Enforcement, notified Manzella in a letter (“Suspension Notice”) that she was suspended, effective immediately, from association with any FINRA firm in any capacity. (RP 19.) The Suspension Notice advised Manzella that she could file a written request for termination of the suspension on grounds of fully complying with the information requests. (RP 19.) It also reiterated the warning that if Manzella failed to seek relief from the suspension she would be automatically barred on October 28, 2014. (RP 19.)

FINRA sent the Suspension Notice to the CRD Address by certified and first-class mail.<sup>8</sup> The certified mail receipt indicates the letter was returned as “unclaimed,” but the U.S. Postal Service did not return the first-class letter. (RP 21-22.) Manzella did not respond to the Suspension Notice.

**F. The October 28, 2014 Bar Notice**

Manzella did not challenge her suspension in the months leading up to October 28, 2014. Accordingly, on that date, Harris notified Manzella by letter that she was barred from association with any FINRA member in any capacity in accordance with FINRA Rule 9552(h) (“Bar Notice”).<sup>9</sup> (RP 25.) The Bar Notice informed Manzella that she could appeal FINRA’s action by filing an application for review with the Commission within 30 days of her receipt of the letter. (RP 25.) FINRA sent the Bar Notice to the CRD address by certified and first-class mail.

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<sup>8</sup> A public records database in LexisNexis confirmed that, as of August 8, 2014, Manzella’s current mailing address was the CRD address to which Harris sent the Suspension Notice. (RP 17.)

<sup>9</sup> FINRA Rule 9552(h) states, “[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.”

The certified mail shipping receipt indicated that the letter was returned as “unclaimed.”<sup>10</sup> (RP 27.) Again, the U.S. Postal Service did not return the first-class letter.

**G. Manzella’s Communications After the Bar Notice**

Approximately five months after she was barred, Manzella contacted FINRA to inquire about her ability to reverse FINRA’s action. On April 6, 2015, Manzella contacted FINRA’s Call Center and asked about the process of filing an appeal. (RP 29; 71.) The next day, Harris left Manzella a voicemail. Harris directed Manzella to call her for questions about her proceeding and reminded Manzella of their previous discussion in August 2014. (RP 29; 71.)

After a series of voice messages, Manzella and Harris spoke on or about April 14, 2015. (RP 71.) On that call, Manzella informed Harris that she thought the bar would only affect her association with FINRA firms, but that she was encountering difficulty in becoming licensed through state agencies. Harris advised Manzella that the appeal deadline for her proceeding had passed. Additionally, Harris recounts: “I explained that if [Manzella] was having difficulty in becoming licensed, she might consider contacting the appropriate agency concerning her options or seeking legal advice. I told [Manzella] that I could not advise her.” (RP 71.)

On July 30, 2015, Harris and Manzella spoke again. (RP 71.) In responding to Manzella’s question of how she could reinstate her licenses, Harris, among other things, directed her to FINRA’s website with regard to applying to associate through the statutory disqualification process. (RP 71.) In response to Manzella’s request, Harris also e-mailed Manzella copies of the Pre-Suspension, Suspension, and Bar Notices. (RP 31-42.) On August

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<sup>10</sup> A public records database in LexisNexis again confirmed that, as of October 28, 2014, Manzella’s current mailing address was the CRD address to which Harris sent the Bar Notice. (RP 23.)

28, 2015, Manzella e-mailed Harris. (RP 43.) In that correspondence, Manzella confirmed their previous discussion about her proceeding. Manzella then pointed to several events and occurrences, including personal, emotional and financial hardships, that she either had encountered or would endure as a result of being barred. (RP 43.) Harris responded to Manzella's e-mail and reiterated the potential, yet limited, recourses Manzella had now that she was barred. (RP 49.)

#### **H. Manzella Applies for Commission Review**

Nearly one year after FINRA barred her, Manzella submitted an application for review to the Commission. (RP 59.) In the application for review, Manzella claims that she received three different letters from FINRA on August 11, 2015 via e-mail after calling FINRA to request copies. Manzella further claims that she "never took physical receipt of these letters via Certified Mail." (RP 59.) She indicates that FINRA called her last August and informed her that not providing a written response would prevent her from selling securities. She then states "the [FINRA] representative on the phone did not tell me that I would be barred from the entire financial services industry as a whole." (RP 59.)

Manzella explains that she was grieving during the time she was called by FINRA. She admits that she had no interest in getting back into sales, and that she was terminated from the financial services industry due to this FINRA violation. Referring to her MBA program in finance for which she expects to graduate in June 2016, Manzella states in her application "[m]y degrees will be useless if I am unable to work in this field. I have 40 years left in the workforce and I do not want to be limited on what I can do." (RP 59.)

### III. ARGUMENT

The Commission should dismiss Manzella's application for review because Manzella failed to exhaust her administrative remedies by providing FINRA the requested information or requesting a hearing. Manzella ignored numerous letters and notices from FINRA, failed to follow FINRA procedures to challenge her suspension, and did nothing to stop the suspension from turning into a bar. Manzella thus failed to exhaust her administrative remedies. In addition, Manzella filed her application for review ten months late and therefore is well beyond the appeal deadline. The Commission should dismiss the appeal.

#### A. Manzella Failed to Exhaust Her Administrative Remedies

The Commission should not consider Manzella's application for review because she failed to follow FINRA procedures, and consequently, failed to exhaust her administrative remedies. As the Commission has held previously, it "will not consider an application for review if the applicant failed to exhaust FINRA's procedures for contesting the sanction at issue." *Ricky D. Mullins*, Exchange Act Release No. 71926, 2014 SEC LEXIS 1268, at \*10 (Apr. 10, 2014) (dismissing application for review where respondent failed to avail himself of administrative remedies and FINRA barred him for failure to respond to FINRA's Rule 8210 request). The precedent in this area is well-settled. *Gerald J. Lodovico*, Exchange Act Release No. 73748, 2014 SEC LEXIS 4732, at \*7 (Dec. 4, 2014) (dismissing appeal because respondent failed to exhaust FINRA's administrative remedies); *Caryl Trewyn Lenahan*, Exchange Act Release No. 73146, 2014 SEC LEXIS 3503, at \*6 (Sept. 19, 2014) (same); *Mark Steven Steckler*, Exchange Act Release No. 71391, 2014 SEC LEXIS 283, at \*8 (Jan. 24, 2014) (same); *Gregory S. Profeta*, Exchange Act Release No. 62055, 2010 SEC LEXIS 1563, at \*5, 8 (May 6, 2010) (same); *Jeffrey A. King*, 58 S.E.C. 839, 843-45 (2005) (same); *Lee Gura*, 57 S.E.C. 972,

976-77 (2004) (same); *David I. Cassuto*, 56 S.E.C. 565, 570 (2003) (dismissing appeal because “applicant failed to follow NASD procedures”); *Gary A. Fox*, 55 S.E.C. 1147, 1149 (2002) (same).

An aggrieved party – such as Manzella– is required to exhaust her administrative remedies before resorting to an appeal. Those who fail to exercise their rights to administrative review cannot claim that they have exhausted their administrative remedies. *Royal Sec. Corp.*, 36 S.E.C. 275, 277 n.3 (1955). Federal courts, as well as the Commission, have applied the exhaustion doctrine with equal force to FINRA proceedings. *See Lang v. French*, 154 F.3d 217, 220 (5th Cir. 1998) (holding that “[NASD] disciplinary orders are reviewable by the [Commission] after administrative remedies within the NASD are exhausted”); *Swirsky v. NASD*, 124 F.3d 59, 62 (1st Cir. 1997) (same).

Manzella failed repeatedly to pursue her administrative remedies to prevent or challenge her suspension. She independently chose not to respond to two Rule 8210 requests, in which FINRA informed her that the failure to respond could result in serious sanctions, including a bar. After the issuance of the Pre-Suspension Notice, Manzella had the opportunity to take corrective action by complying with the Rule 8210 requests or, alternatively, to request a hearing and set forth the reasons why she believed her suspension should be set aside. (RP 11-12.) Manzella received actual notice of the corrective action she needed to take from the Pre-Suspension Notice she received. Harris also discussed with Manzella the Rule 9552 process, including the consequences for not responding to FINRA requests, in a subsequent telephone conversation. (RP 69). But Manzella did not take corrective action or request a hearing.

After issuance of the Suspension Notice, Manzella had the opportunity to move for reinstatement on the grounds that she had fully complied with the Pre-Suspension Notice. (RP

19-20.) Similar to her decision not to respond to FINRA's two requests for information, Manzella did nothing. Accordingly, pursuant to FINRA Rule 9552(h), Manzella was barred.<sup>11</sup> (RP 27-28.)

By failing to take action in accordance with FINRA rules and as directed by the Pre-Suspension and Suspension Notices, Manzella forfeited her ability to challenge the actions of FINRA before the Commission. *See Profeta*, 2010 SEC LEXIS 1563, at \*6 (finding in a Rule 9552 proceeding that "FINRA's actions were in accordance with its rules and the purposes of the Exchange Act [when] rules set forth the procedures for suspending and ultimately barring individuals who fail to supply requested information or take corrective action"); *Cassuto*, 56 S.E.C. at 570-72 (dismissing application for review because of applicant's failure to ask for a hearing or to move for reinstatement after suspension in NASD action stemming from failure to respond to Rule 8210 requests for information).

Manzella could have prevented the suspension and subsequent bar by: (1) providing the information at issue, (2) requesting a hearing timely, or (3) contesting the suspension during the three-month suspension period, as detailed in the Pre-Suspension Notice. (RP 11-12.) She took none of these steps. Instead, Manzella accepted her fate of an impending bar, and filed this appeal more than thirteen months after she received the Suspension Notice, and eleven months after FINRA's Pre-Suspension, Suspension, and Bar Notices.

Manzella makes a number of arguments in her attempt to have the bar eliminated. All of her arguments lack merit. Contrary to Manzella's implication in her application for review that she was not aware of FINRA's requests, the record reflects that FINRA provided Manzella with

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<sup>11</sup> *See* FINRA Rule 9552(h), *supra* note 9.



proper notice of her proceeding. It is undisputed that FINRA sent all correspondence to Manzella's CRD Address and the first-class mailings were never returned. FINRA complied with the applicable rules and properly served Manzella. *See Gilbert Torres Martinez*, Exchange Act Release No. 69405, 2013 SEC LEXIS 1147, at \*4 n.6 (Apr. 18, 2013) (stating that a "notice issued pursuant to Rule 8210 is deemed received by such person when mailed to the individual's last known CRD address"); *Edward J. Jakubik, Jr.*, Exchange Act Release No. 61541, 2010 SEC LEXIS 1014 at \*16 (Feb. 18, 2010) (finding that applicant was deemed to have received FINRA's default decision when properly served to his CRD address). Further, Manzella received actual notice of FINRA's notices. She admits in her application for review that she discussed her Rule 9552 proceeding with FINRA "last August [2014]" and purportedly was provided with only certain information. (RP 59.) Harris' declaration corroborates the August 2014 discussion, and thus establishes that Manzella received actual notice of FINRA's requests, including repeated warnings of what would happen should she fail to respond. (RP 69-72.)

Although Manzella claims that FINRA did not inform her that she would be barred from the entire financial services industry, it is Manzella's—and not FINRA's—responsibility to understand her obligations as an associated person of a member and to comply with FINRA rules, including understanding the consequences for failing to respond timely to FINRA's requests for information. *See Thomas C. Kocherhans*, 52 S.E.C. 528, 531 (1995) (citing *Carter v. SEC*, 726 F.2d 472, 473-474 (9th Cir. 1983), and stating that "as employees, [the representatives] are assumed as a matter of law to have read and have knowledge of these rules and requirements"). (internal quotation marks omitted)

Assuming, for the sake of argument, that Manzella did not understand the adverse effects of her bar regarding employment opportunities in the financial industry, her lack of

understanding is no reason to invalidate FINRA's actions. The Commission repeatedly has held that ignorance of FINRA requirements is no excuse for violative behavior. *See Scott Epstein*, Exchange Act Release No. 59328, 2009 SEC LEXIS 217, at \*73-74 (Jan. 30, 2009); *Kocherhans*, 52 S.E.C. at 531 ("Participants in the securities industry must take responsibility for compliance with regulatory requirements and cannot be excused for lack of knowledge, understanding, or appreciation of these requirements").

Manzella realizes her lack of appreciation of the ramifications of her noncompliance; however, she attempts to shift her burden of complying with FINRA rules on FINRA staff who appropriately directed her to FINRA's multiple notices and warned her of an impending bar should she decide to do nothing. But Manzella cannot shift her burden in this way. *See Patrick G. Keel*, 51 S.E.C. 282, 287 (1993) (finding that respondent did not take responsibility for making unsuitable recommendations but blamed his supervisor and customers instead.)

Moreover, Manzella risked her future as a securities professional by allowing herself to be barred in the hope that it would not impact her future endeavors. She freely admits in her application for review that, although she was given the opportunity to avoid being barred, she independently chose not to respond. Manzella claims that she was grieving at the time and "[i]t did not seem like something I needed to do because I had no interest in getting back into sales at that time." (RP 59). Thus, she did nothing. The Commission should not allow her to change her mind through an untimely appeal.

As the Commission explained in *Mayer A. Amsel*, 52 S.E.C. 761, 767 (1996), "it is inappropriate for a party to 'suppress his misgivings while waiting anxiously to see whether the decision goes in his favor.' In a similar vein, we have stated that 'a respondent cannot be permitted to gamble on one course of action and, upon an unfavorable decision, to try another

course of action.”) (citation omitted). Manzella’s departure from the securities industry was voluntary, and her decision not to comply with FINRA rules was deliberate. She was informed by FINRA staff and through several FINRA notices of the consequences of failing to respond. Manzella now cannot claim a lack of understanding. Manzella’s failure to follow FINRA’s procedures means that she does not qualify for appellate review by the Commission. *See Cassuto*, 56 S.E.C. at 570-72. The Commission should dismiss this appeal.

**B. This Application for Review Should Be Dismissed as Untimely**

Even if Manzella had exhausted her administrative remedies—which plainly she did not—the Commission should dismiss this appeal on the separate ground that it is untimely.

Section 19(d)(2) of the Securities Exchange Act of 1934 (“Exchange Act”) provides that any person aggrieved by a final disciplinary sanction imposed by a self-regulatory organization may file an appeal “within 30 days” after the date the notice of the self-regulatory organization’s determination was filed with the SEC and received by the aggrieved person, or “within such longer period as [the SEC] shall determine.” 15 U.S.C. § 78s(d)(2). SEC Rule of Practice 420 is the “exclusive remedy” for seeking an extension of the 30-day appeal period. 17 C.F.R. § 201.420(b). That rule provides that the Commission will allow the filing of a late application for review only upon “a showing of extraordinary circumstances.” *Robert M. Ryerson*, Exchange Act Release No. 57839, 2008 SEC LEXIS 1153, at \*7 & n.9 (May 20, 2008).

Manzella’s appeal is untimely and the Commission should dismiss it. Harris sent the bar letter to Manzella on October 28, 2014. Manzella’s application for review is dated September 3, 2015, which is well past the 30-day appeal deadline. In similar circumstances, the Commission has declined to review late applications for review. *See Warren B. Minton, Jr.*, 55 S.E.C. 1170, 1178-79 (2002) (refusing to accept an application for review filed 2.5 years after final NASD

action); *Lance E. Van Alstyne*, 53 S.E.C. 1093, 1099 (1988) (refusing to accept an application for review filed five months after notice of NASD decision). Accordingly, the Commission should dismiss Manzella's appeal because it is untimely.

#### IV. CONCLUSION

Manzella repeatedly failed to respond to FINRA's requests for information, and consequently, FINRA suspended her. She then disregarded the directives set forth in FINRA's notices and failed to follow FINRA's administrative procedures to terminate the suspension. As a result, FINRA barred Manzella. The Commission should dismiss Manzella's application for review because she failed to exhaust her administrative remedies, or because it is untimely.

Respectfully submitted,

By: 

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October 7, 2015

**CERTIFICATE OF SERVICE**

I, Lisa Jones Toms, certify that on this 7th day of October 2015, I caused a copy of FINRA's Motion to Dismiss Manzella's Application for Review and to Stay Briefing Schedule, in the matter of Application for Review of Aliza Ann Manzella, Administrative Proceeding No. 3-16814, to be served by messenger on:

Brent J. Fields, Secretary  
Securities and Exchange Commission  
100 F St., NE  
Washington, DC 20549

and via FedEx overnight delivery and electronic mail on:

Aliza Ann Manzella  
[REDACTED]  
[REDACTED]  
Lake Barrington, IL [REDACTED]

Aliza Ann Manzella  
[REDACTED]  
[REDACTED]  
Chicago, IL [REDACTED]  
[REDACTED]

Service was made on the Commission by messenger and on the applicant by FedEx due to the distance between the office of FINRA and the applicant.



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