BEFORE THE

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC

In the Matter of the Application of

Joseph R. Butler

For Review of Disciplinary Action Taken by

FINRA

File No. 3-16912

RESPONDENT'S REPLY TO FINRA'S BRIEF IN OPPOSITION TO APPLICATION OF JOSEPH R. BUTLER

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Please accept Respondent's Reply as to FINRA's brief. The ultimate and fundamental question that must be answered in these proceedings is whether Ms. Williamson is permitted to give sums to the only person in the world who is doing anything for her. FINRA has constantly stated that Ms. Williamson should give her property to her family who wanted nothing to do with her and refused to present any testimony or evidence at any proceeding. If it was the intention of Ms. Williamson to give or leave her property for her family, as insisted upon by FINRA, why was there not any evidence by any family member, her granddaughter, friends, the complainant, or anyone or anything to support this opinion. Absolutely nothing had been presented. FINRA even has rules addressing post hearing evidence, and, even considering these rules, nothing has been presented. This failure which can only lead to the conclusion that this belief by FINRA is not supported by evidence or in other words, the belief is flat wrong.

Fortunately, FINRA's Opposition supports many of the facts and arguments of Mr. Butler in his appeal. The reply and Opposition continues and states, repetitively, Ms. Williamson's [redacted]," "[redacted]," or "[redacted]" This was stated over and over throughout the Opposition, but, FINRA does not state anywhere, that Ms. Williamson was in any way "[redacted]"

throughout anytime of this occurrence. This begs the question of what Mr. Butler has been arguing throughout the proceeding, is that if FINRA is going to state any type of [redacted], then there must be some type of evidence as to the "degree" and also the "time" when such [redacted] was occurring. FINRA's continued use of the broad language [redacted] does not lead to any type of factual basis but continues with speculation as to what the terms mean. This is on top of the undisputed evidence by Mr. Butler that Ms. Williamson continued to live on her own, and was aware of these checks. It is absolutely undisputed that an element of conversion that FINRA must prove is "unauthorized". However, it is undisputed that there was not any direct evidence presented as to whether any or all of these checks were "unauthorized". The only evidence was from Mr. Butler who he testified that Ms. Williamson was aware of the checks. There was not any other direct evidence otherwise.

The Opposition goes on to state, regarding the original complaint that was filed, that the complaint was filed on behalf of Ms. Williamson's granddaughters, and other family members. But as stated, if indeed this was in any way factual, then why not have the complainant, the granddaughters, or any other members of her family or anyone else present any testimony whatsoever, including, letters, testimony, affidavits, or any other type of direct testimony. There was not anything presented. Nor was there any explanation as to why such evidence would be unavailable. FINRA was fully aware of these arguments by Mr. Butler, and even if they did not present such evidence at the original hearing, FINRA has rules that provide for supplemental evidence being submitted. Nothing was submitted pursuant to those rules.

The Opposition goes to great lengths to discuss where [redacted] creates a [redacted]. However, there must be some evidence that what a [redacted] or

[redacted] is through some type of medical testimony. FINRA did not present any such medical testimony. As stated earlier, Mr. Butler presented medical evidence as to "[redacted]" which includes a broad spectrum of diagnosis. Furthermore, the Opposition does not accurately represent the facts [redacted] was mentioned in a medical report in January, 2011, without any course or type of treatment. That omission of the course of treatment is very telling and certainly would indicate that the diagnosis would be a lesser type form of the condition. However, more importantly, the June, 2011 appointment does not in any way mention any type of diagnosis for [redacted]. Why was the diagnosis not mentioned in a supplemental report? Was the original diagnosis incorrect? Did she somehow get better? FINRA chose not to present any such evidence. This simply cannot be ignored as well the insistence by Mr. Butler that if medical diagnosis of "[redacted]" is going to be a basis of the decision, there has to be some type of evidence [redacted]. Otherwise, this speculation and the belief by FINRA is far beyond what is stated in the facts.

Fortunately and properly, the Opposition does properly characterize Mr. Butler as the individual who assisted her in her daily tasks, drove her to doctors' appointments, drove her to the pharmacy to pick up prescriptions, took her to church, took her to the grocery store, took her to the beauty parlor, took her to lunches and dinners, was there to watch over her and maintain her house, took her on vacation, took her to spend holidays with his family, and made sure that her bills were paid, and made sure that he was there for her. These items were stated in the Opposition as well as the undisputed testimony as presented at the hearing. This reinforces the notion that Ms. Williamson did not have anyone else in the world who in any way cared for her. As indicated, there was not any testimony from the complainant, the granddaughters, the family

members, or anyone else to testify as to any of these actions by Mr. Butler. Why there was not any evidence presented whatsoever either at the hearing or under the FINRA rules post hearing. Certainly goes to the intent of Ms. Williamson. Most importantly, why is it so difficult to assert, or beyond the "belief" of FINRA, that Ms. Williamson would want to do something for the only person in this world who did anything for her. This is further supported by the fact that Ms. Williamsons account kept growing while Mr. Butler was assisting her even considering the checks that were written. Those accounts kept growing. The notion that she would do something for him has been categorically rejected by FINRA who only believes that she should only do things for individuals who care nothing for her.

Also, the Opposition mentions the Last Will and Testament and the Power of Attorney that were prepared. However, obviously, the Last Will and Testament was not used, and it was not mentioned in the Opposition that the Power of Attorney was not ever used for any type of financial transaction whatsoever. As indicated in the testimony, the only time that the Power of Attorney was used was when Mr. Butler placed Ms. Williamson in an assisted living facility. It was also not stated in the Opposition that throughout the time of Mr. Butler's assistance of Ms. Williamson, that he made sure that there was a sufficient monthly stream of income to be assured that there were sufficient funds for her to live in the assisted living facility. It is undisputed that Mr. Butler did this, not any family member. It was also not disclosed that after Mr. Butler placed Ms. Williamson in the assisted living facility, her family then came and immediately withdrew her out, and closed her bank accounts and withdrew all of her money. The family sent Mr. Butler an affidavit saying that the Power of Attorney was then void and the affidavit was signed by a notary who stated, under oath, that Ms. Williamson was of "sound mind and body". The evidence presented indicated that this was February 1, 2012, after Mr. Butler placed Ms. Williamson in

the assisted living facility. Said affidavit was presented in evidence. The family then put Ms. Williamson back into the house with a lower standard of health care nurse rather than in a facility. As stated at the hearing, for a woman who has lived all of her life alone, and took care of herself, even though she had the assistance of Mr. Butler, that was certainly not what she wanted. It is no wonder that Ms. Williamson did not want anything to do with her family as opposed to Mr. Butler. However, FINRA continues with its unwavering position that the family should be favored over the one who cared for her everyday.

The Opposition does go on to state how Mr. Butler cared for her in making sure that she had a pill box on the kitchen table and would call her as often as three times a day to check on her and remind her to take her pills, disabling the gas stove, and made sure that there was always food in the house. Such conduct is certainly inconsistent with somebody taking advantage of another individual, however, it cannot be denied that even throughout this time she continued to live on her own and take care of her own needs, all with the assistance of Mr. Butler. This becomes vital in that it goes directly to the heart of FINRA's argument of what "[redacted]" actually means. Moreover, regardless of the attempts by FINRA to equate the meals on wheels application to a medical diagnosis, FINRA misrepresents the meals on wheels application form since it states that Ms. Williamson lived on her own, eats by herself, dressed and bathes herself, and cares for herself around the house. Most importantly, and what is an alarming omission by FINRA is that the application specifically states "client handles own money, writes checks, keeps track of funds." This omission by FINRA cannot be overlooked.

The Opposition then goes on to state that a cat scan was ordered and it was noted a "[redacted]." As indicated, there was not any medical evidence as to what this means. It certainly indicates that there is continued speculation as to any medical diagnosis and

as to the term of [redacted]". Why is the doctor wavering on his diagnosis? What type of degree is meant in the possible [redacted] diagnosis? Of course, this just adds to the speculation and a "belief" by FINRA as opposed to the actual presentation of evidence. However, many of the checks at issue were written prior to this time which makes this discussion by FINRA further misleading.

A key point in the Opposition is the paragraph, on page 9, that states "in December, 2011, Mr. Butler brought Williamson back to her family doctor. The doctors note indicate that by this point Ms. Williamson was suffering from '[redacted]" and that he was to follow up with Mr. Butler concerning her estate and affairs. Mr. Butler testified that he asked the doctor about taking the next step because Ms. Williamson could no longer live alone." Again, the checks at issue were written prior to this time and this diagnosis is very different than the previous medical diagnosis. This is a very important paragraph and admission by FINRA which fully supports Mr. Butler's argument in this case. As stated, Mr. Butler has stated that it was in December, 2011 that he realized that she could no longer live alone and he placed her in an assisted living facility within the next few weeks. As indicated, by FINRA it was Mr. Butler who was continuing to care for Ms. Williamson and take her to a doctor. As indicated by the hearing, why was he continuing to do this without any other family members being present. It was at this time that she was given a diagnosis of '[redacted]" which Mr. Butler fully admits and he is the one who was addressing the doctor about the assisted living facility. However, it is absolutely undisputed, that prior to this time there is not any indication of any type of [redacted] Mr. Butler has always stated that December 2011 is the key date in which she could basically no longer care for herself, but, prior to that time she continued to live alone and care for herself. Those facts simply could not be dismissed or overruled. The checks were written prior to this

time. The family was nowhere around prior to this time, thus the key question that FINRA refuses to answer is why not give to the only person caring for you and most importantly why does FINRA refuse to present evidence otherwise. This only leads to the conclusion that such evidence does not exist. FINRA absolutely dismisses this possibility and is solely focused on their belief that her property must go her family that cares nothing for her.

FINRA in its consistent description of the testimony of Mr. Butler states that he testified that all of the checks were spent for her bills. In reviewing the transcript, this statement is absolutely untrue and in his testimony before the OTR, his testimony is actually to the contrary. In the examination about the checks, he testified, that various checks were to pay bills, other checks he could not remember, and other checks he was not asked for the purpose. Nevertheless, it is clear that looking at his testimony as a whole, throughout his OTR's, that there was not any testimony that states that the checks were exclusively to pay bills or exclusively for some particular purpose. He gives a wide range of explanations as to what the checks were paid for as well as the fact that many times he did not remember. More importantly, he fully admits that she was maintaining her bank account and aware of the transactions and also indicated that he would tell her regarding various other checks. More importantly, he indicated that she was specifically informed of the checks. Mr. Butler's testimony at the hearing was specific that she was aware of the checks. There is not any direct evidence otherwise.

The position of FINRA with regard to her [redacted] can be basically summarized in a sentence in paragraph 12 that states "at the hearing (and in his papers in supports of his application), Mr. Butler suddenly denied that Ms. Williamson was suffering a [redacted] claimed that Ms. Williamson was competent to manage her finances and able to balance her checkbook." Mr. Butler asserts that this sentence fully recognizes FINRA's

lack of understanding of facts of the proceeding and the element of proof that any of the checks were "unauthorized." If there was a "[redacted]", then present some type of medical testimony that [redacted]" equates to some type of "[redacted]." Those are fundamentally different aspects as Mr. Butler has been arguing that any evidence of a [redacted] must be with some type [redacted]." Evidence was not presented as to either since that testimony would be fatal to FINRA's case since there must be testimony that any type of [redacted] would equate to the checks being "unauthorized." Unless it is shown that she has some type of mental incapacity where she can no longer make decisions for herself, then such evidence of "unauthorized' has not been met and we are simply dealing with speculation. Such speculation is furthered by the fact that Ms. Williamson continued to live alone and that she still reviewed her checkbook as testified by Mr. Butler. This also leads to the fundamental question as to this case as to why someone would not want to do something for the only person who does anything for you when that person is caring for you and causing your accounts to continue to grow. This also questions why there was not any evidence presented otherwise.

FINRA also states on a number of occasions in their Opposition that Mr. Butler "changed his story." Again, there must be a fundamental misunderstanding between an investigation by FINRA and a presentation of the evidence by Mr. Butler at the hearing. FINRA's statements seem to indicate that Mr. Butler is not permitted to tell his side at the hearing. Such a belief is simply incorrect. Throughout the OTR's and the investigations, Mr. Butler answered the questions of FINRA. At the hearing, he presented his side of the story which was completely uncontradicted. And while there is speculation, the question arises as to why such evidence would not be presented in any type of post hearing production of additional evidence which is fully

permitted under FINRA rules. The failure to present any evidence certainly indicates that it simply does not exist which goes directly to a required finding of an element by FINRA that any of the checks were "unauthorized."

With regard to the placing the one word "son" on the beneficiary change, even though it was a very close relationship between Ms. Williamson and Mr. Butler, there was not any evidence presented that there was any intent to deceive anyone by placing this beneficiary or that Mr. Butler could not be placed as a beneficiary on this life insurance account. There was not any evidence presented that anyone was deceived by this action. Of course, FINRA omitted that Ms. Williamson had placed Mr. Butler on another life insurance policy that Mr. Butler was unaware in which she placed his name as "son". There is absolutely no dispute that she did this on her own.

Conclusion

Mr. Butler certainly understands the seriousness of these allegations and the initial decisions by FINRA. Unfortunately, FINRA's unwavering belief that what occurred is simply not supported by the actual facts of the case. FINRA has a belief as to what occurred and is looking for any facts to support that belief as opposed to the facts that actually occurred. However, the belief simply cannot be used to overcome required findings by FINRA that the checks were "unauthorized." This was a very unique and close relationship between these two individuals which cannot be ignored.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing RESPONDENT'S REPLY TO FINRA'S BRIEF IN OPPOSITION TO APPLICATION OF JOSEPH R. BUTLER was hand-filed, on February 8th, 2016 to:

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