UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION.

In the matter of	**Application for Review of**
THADDEUS J. NORTH	**Complaint No. 2010025087302**

3-17909

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934,[1] applicant Thaddeus J. North asserts that but for cumulative evidentiary errors,[2] which decisions were not harmless error committed by the FINRA Hearing Officer for the FINRA Hearing Panel and General Counsel for the National Adjudicatory Council ("NAC"), the outcome of Complaint No. 2010025087302 would have been different. FINRA Rule 9251(g). The NAC Panel erred in affirming the FINRA Hearing Panel findings of liability, affirming fines of $40,000, costs, and in enhancing the Hearing Panel sanctions to statutory disqualification and ninety days of suspension. The sanctions fail the concept of proportionality because NAC relied on the Hearing Panel's erroneous findings, which relied on the Hearing Officer's erroneous findings that Email was irrelevant, expert testimony and evidence regarding failure of the electronic records archive were inadmissible, and Smarsh Reports, absent proper foundation, were admissible.

FINRA's General Counsel erred by denying Mr. North's motion to admit additional evidence and expert reports prepared after examination of the Email and additional evidence including:[3] (a) the American Registry of Internet Numbers ("ARIN") records that reveal Smarsh

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[1] Because Securities and Exchange Commission ("SEC") procedural rules do not limit the application to single-sided pages, Counsel submits this pleading double-sided to comply the 8 ½" x 11" two-page limitation.

[2] *See e.g.* Mr. North's pre and post hearing briefs for the FINRA and NAC Hearing Panels. In addition Mr. North has taken steps to bring his concerns before other appropriate authorities.

[3] The evidence includes: testimony of Smarsh employees, JD and RS, and FINRA examiner, JM; the Declaration of Smarsh General Counsel, BP; and reports from JB and FH, two experts with combined expertise in digital forensics and programming, Y2K compliance, digital transportation, and the XML language of Bloomberg communications.

Inc. ("Smarsh") does not own, operate, or control any servers; therefore, Smarsh did not host Email services or servers for Southridge employees and had no ability or intent to deliver regulatory compliance archiving; (b) Smarsh did not attach an archive server to the Email server hosting Southridge employees' Email service, as is necessary for regulatory compliance archiving; (c) Smarsh could not host a Smarsh Management Console ("SMC") or produce the Smarsh Reports admitted in evidence because it does not own, operate, or control any servers; (d) the Smarsh Reports were created on non-Y2K compliant federal government resources to which only FINRA has access; and (f) Smarsh General Counsel, BP, admitted that Smarsh did not archive Email, but gave instructions to Southridge employees to change settings on communication devices and servers. Expert FH concluded that Smarsh's instructions are the device of unlawful interception and redirection of Email to servers where FINRA processed, tampered with, and reconstructed Email. This misconduct precludes all claims against Mr. North.

Claim 3. For reasons detailed in pre and post hearing briefing for the Hearing and NAC Panels, the Hearing Officer abused his discretion in admitting the Smarsh Reports as evidence. The reports were produced on non-Y2K compliant resources, and so, could not have been prepared by Smarsh. Further, Smarsh could not host an SMC from which the Smarsh Reports were allegedly derived because Smarsh does not own, operate, or control any servers. FINRA employees with access to non-Y2K resources created the false Smarsh Reports to advance the false impression of gross failure and willful ignorance towards compliance risks and actions.[4]

Claim 2. There is no SEC or FINRA rule requiring specific percentages for random sampling, specific review intervals, or the use of specific search terms for reviewing Email. The rules about electronic communication review and SEC and FINRA interpretations describe

[4] Although not listed in his CRD, Mr. North completed the six-week FINRA Institute at Wharton Certified Regulatory and Compliance Professional program in 2009.

documenting actions in terms of reasonableness. It is undisputed that Mr. North used a fifteen percent sample and industry tailored search terms to review Email. Due to the false impressions created by false Smarsh Reports, dubious because Smarsh does not own, operate or control any servers, a scriveners' error—one unselected tab in one of many drafts made from a 450 plus page template—was grossly and disproportionately exaggerated to willful failure to implement reasonably tailored written supervisory procedures and to justify enhanced, oppressive penalties.

Claim 1. Mr. North admits he did not file a Rule 3070 notice. WES investigated LK and reported no fouls to Mr. North; no evidence exists that Mr. North could have discovered relevant details from another source about an LK-TC relationship, or that enhanced Email surveillance would have been successful, considering that the Email metadata reveals how and when Smarsh and FINRA acted to intercept the Email, subverting and interfering with the firm's compliance.

Bias. The Hearing Officer's conclusion that the Email was irrelevant was not harmless error because it hid Enforcement's hand in falsifying evidence. The ruling allowed the Hearing Officer to issue subsequent rulings about testimony and evidence in favor of Enforcement, excluding expert testimony about evidence contained in the Email metadata, the location of the Email database, and the source(s) of the Email and the alleged Smarsh Reports as irrelevant to the complaints against Mr. North. The Hearing Officer refused to consider evidence from expert JB that 100 percent of the Email handled prior to delivery to Mr. North had been altered, indicating that either Smarsh never archived the Email or did not archive the Email properly. The failure to perform a non-delegable duty should have but did not operate to impose more serious liability on Mr. North or the firm for failure to ensure compliance with regulatory archiving. Although the Hearing Officer recognized discrepancies related to the Email, by finding the Email irrelevant, he intentionally avoided the substantive issue of why the Email was not in archival

condition and who bore responsibility for the failure. With Email content out of the way, Smarsh witness RS could testify only about the SMC, preparation of the Smarsh Reports, and why certain data was not available to substantiate report content (not Email content). Despite the Hearing Officer's willful avoidance, Mr. North continued exploring the causes that changed the Email content and condition. The investigation reveals that Smarsh did not and could not archive the Email because Smarsh does not own, operate, or control any server registered with ARIN, that Smarsh introduced the device that triggered the interception and redirection of Email to a private network of computers and servers accessed by FINRA employees. Enforcement access and processing caused substantive change to Email content, critical compliance information and appearance, and destroyed security and encryption of the Email. There being no Smarsh archive or servers, the SMC was a fiction and the Smarsh Reports a creation of Enforcement employees. As lawyers, FINRA's Hearing Officer and General Counsel should have recognized the criminal and unconstitutional nature of the conduct identified by Mr. North. Instead, their biases were revealed by their purposeful elimination from consideration by the Hearing and NAC Panels of evidence of the unlawful conduct[5] engaged in by Enforcement and Smarsh.

Mr. North is a victim the unlawful actions of FINRA and Smarsh employees; all rulings should be reversed and claims dismissed because all evidence was contrived.

Mr. North may be served at: [redacted] New Milford, CT [redacted]

Submitted this 3rd day of April 2017 for THADDEUS J. NORTH

by: Constance J. Miller

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[5] *See e.g.* Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2522 (2016).