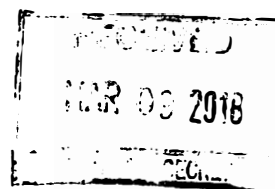


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**BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC**

In the Matter of the Application of

Bruce Zipper

File No. 3-17963

**FINRA'S OPPOSITION TO ZIPPER'S MOTION TO ADDUCE ADDITIONAL  
EVIDENCE**

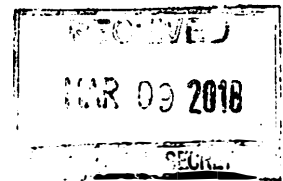
Alan Lawhead  
Vice President and  
Director – Appellate Group

Colleen E. Durbin  
Assistant General Counsel

FINRA  
Office of General Counsel  
1735 K Street, NW  
Washington, DC 20006  
202-728-8816

March 9, 2018

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

In the Matter of the Application of

Bruce Zipper

File No. 3-17963

**FINRA'S OPPOSITION TO ZIPPER'S MOTION TO ADDUCE ADDITIONAL  
EVIDENCE**

On March 5, 2018, Bruce Zipper filed a Motion for Leave to Adduce Additional Evidence. He asks that the Commission allow him to belatedly file copies of his telephone logs which he argues will show “multiple [] calls between myself with FINRA in the Boca Raton Office at Finra.” In a later communication with the Commission on March 5, Zipper furnished copies of these phone records showing several telephone calls to and from FINRA between April 1 and April 22, 2016. The Commission should deny Zipper’s motion for the following reasons:

First, Zipper should have long ago produced these phone records, and his dilatory attempt to do so now serves to further prolong this matter. Zipper should have produced this call log in October 2017 when he initially filed his motion for reconsideration. In any event, the latest Zipper should have produced this log is February 15, 2018,<sup>1</sup> pursuant to the Commission’s January 11, 2018 Order Requesting Additional Briefing (“January Order”). Zipper was specifically directed to attach any evidentiary materials to his reply brief. Instead, in direct contravention of the January Order, Zipper waited weeks after his reply brief was due to attempt

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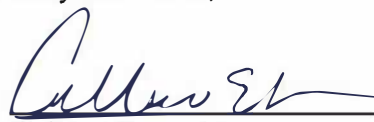
<sup>1</sup> Pursuant to the Commission’s Extension Order dated January 17, 2018.

to introduce his phone records. The Commission should stand by the deadline in its January Order and deny Zipper's motion.

In addition, Zipper's motion to adduce fails on the merits. SEC Rule 452, 17 C.F.R. § 201.452, permits a party to a Commission administrative proceeding to file a motion to adduce additional evidence, but requires that any such motion "show with particularity that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence previously." Zipper does not adequately explain why he could not have produced his own phone records when his reply brief was due. Furthermore, the call log is not material. First, it does not reflect the substance of the conversations that Zipper had with FINRA staff, only that conversations occurred. Second, some of the calls highlighted by Zipper were to FINRA's Rockville, Maryland office, whose staff had no involvement with the AWC at issue in Zipper's appeal. Finally, the log clearly shows that Zipper did not have any phone conversations with FINRA on April 5, 2016 (or the days immediately before or after), the date which Zipper has asserted he attempted to withdraw from his AWC. The salient question raised by the Commission in its January Order concerns whether Zipper attempted to withdraw from his AWC prior to FINRA's acceptance. Nothing in this phone log evidences a phone conversation in which Zipper attempted to withdraw prior to FINRA's acceptance of his AWC, or more specifically that Zipper tried to withdraw on April 5 as he has alleged; thus, the phone call log is not material.

Therefore, FINRA requests that the Commission deny Zipper's Motion to Adduce Additional Evidence.

Respectfully submitted,

By: \_\_\_\_\_

Colleen E. Durbin  
Office of General Counsel  
FINRA  
1735 K Street, NW  
Washington, DC 20006  
202-728-8816 – telephone  
202-728-8264 – facsimile

March 9, 2018

**CERTIFICATE OF SERVICE**

I, Colleen Durbin, certify that on this 9<sup>th</sup> day of March 2018, I caused a copy of the foregoing FINRA's Opposition to Zipper's Motion to Adduce Additional Evidence to be sent via messenger and fax to:

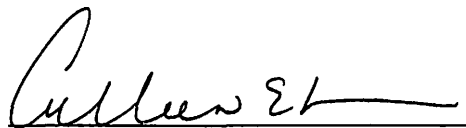
Brent J. Fields, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Room 10915 – Mailstop 1090  
Washington, DC 20549-1090

and via overnight delivery and electronic mail to:

Bruce Zipper

[REDACTED]  
[REDACTED] 33157  
[REDACTED]@gmail.com

Service was made on the Securities and Exchange Commission by messenger and on the Applicant by overnight delivery service and electronic mail because courier service could not be provided to Applicant.

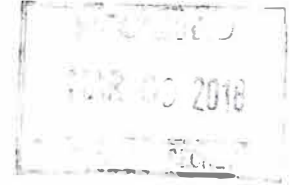


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(202) 728-8816



Financial Industry Regulatory Authority

**HARD COPY**



**Colleen Durbin**  
Assistant General Counsel

Direct: (202) 728-8816

March 9, 2018

**VIA MESSENGER**

Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Room 10915  
Washington, DC 20549-1090

**RE: In the Matter of the Application of Bruce Zipper**  
**Administrative Proceeding No. 3-17963**

Dear Mr. Fields:

Enclosed please find the original and three copies of FINRA's Opposition to Zipper's Motion to Adduce Additional Evidence.

Please contact me at (202) 728-8816 if you have any questions.

Very truly yours,

A handwritten signature in blue ink that reads "Colleen Durbin".

Colleen Durbin

cc: Bruce Zipper  
Brennan Love