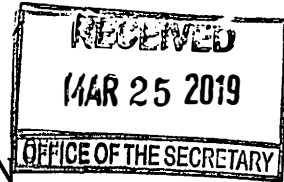


BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C.



IN THE MATTER OF THE APPLICATION OF
CONSTANTINE GUS CRISTO
FOR REVIEW OF ACTION TAKEN BY FINRA

ADMINISTRATIVE PROCEEDING
FILE NO. 3-18539

**MOTION OF CONSTANTINE CRISTO FOR LEAVE TO
ADDUCE ADDITIONAL EVIDENCE**

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March 22, 2019

**MOTION OF CONSTANTINE CRISTO FOR LEAVE TO
ADDUCE ADDITIONAL EVIDENCE**

Constantine Gus Cristo ("Cristo") respectfully submits this motion in the above-referenced administrative proceeding relating to FINRA Rule 12206, under rule 452 of the Commission's Rules of Practice (17 C.F.R. § 201.452).

Cristo seeks leave to adduce evidence concerning the Financial Industry Regulatory Authority's ("FINRA") past practice related to arbitration claims, (a) where six years had elapsed from the occurrence or event giving rise to the claim as specified in FINRA Rule 12206(a); and (b) when the Complainant was a customer or client of a FINRA member firm.

Specifically, the purpose of this motion is to seek leave to supplement the record in this matter by showing FINRA's past practice of uniformly applying FINRA Rule 12206(a), to deny any claim where the occurrence or event giving rise to the claim occurred more than six years prior to the Statement of Claim.

**FINRA ARBITRATION CASES DECIDED ON THE BASIS OF
FINRA RULE 12206(a)**

For each and every FINRA Arbitration Case listed below, (a) six years had elapsed from the occurrence or event giving rise to the claim as specified in FINRA Rule 12206(a); and (b) the Complainant was a customer or client of a

FINRA member firm. The first 30 claims researched were all uniformly dismissed per FINRA Rule 12206(a). As a *pro se* litigant, Cristo was unaware that he could view summaries of all FINRA arbitration cases over the FINRA website, or he would have included said evidence with his original brief.

#	CASE #	CLAIMANT	RESPONDENT	RESULT
1	14-01439	Anderson	Berthel Fisher	Dismissed
2	15-00661	Flemming	Merrill Lynch	Dismissed
3	15-00707	Goffman	Merrill Lynch	Dismissed
4	15-01408	Dukoff	Merrill Lynch	Dismissed
5	15-01510	Haberkorn	Wells Fargo	Dismissed
6	15-02734	Price-Tilley	Schwab	Dismissed
7	15-03059	Chtcherban	Merrill Lynch	Dismissed
8	16-00467	Sherman	Merrill Lynch	Dismissed
9	16-00531	Rapp	Merrill Lynch	Dismissed
10	16-00652	Masi	Tradition	Dismissed
11	16-01180	Western	VSR Financial	Dismissed
12	16-01441	Grallnick	Schwab	Dismissed
13	16-01462	Schaefer	Source Capital	Dismissed
14	16-02988	Seneca	Wells Fargo	Dismissed
15	16-03179	Jordan	Merrill Lynch	Dismissed
16	16-03384	Anderson	Berthel Fisher	Dismissed
17	17-00015	Monteath	Wells Fargo	Dismissed
18	17-00449	Cordero	Merrill Lynch	Dismissed
19	17-01664	Wilczynski	Aegis Capital	Dismissed
20	17-01678	Billington	Merrill Lynch	Dismissed
21	17-02071	Gallagher	Ameritas	Dismissed
22	17-02191	Kjellsen	Wells Fargo	Dismissed
23	17-02836	Riley	Noyes & Co	Dismissed

24	17-03250	Kjellsen	Morgan Stanley	Dismissed
25	17-03272	Jocis	Capital City	Dismissed
26	17-03316	McClanahan	Merrill Lynch	Dismissed
27	18-00141	Williams	JP Morgan Sec	Dismissed
28	18-00756	Villanueva	Santander Sec.	Dismissed
29	18-01018	Bishop	Citigroup	Dismissed
30	18-01092	Langille	Berthel Fisher	Dismissed

Without exception, the sampling observed by Cristo to file this Motion suggests that within the entire record of cases since the founding of FINRA, there will be hundreds of cases that demonstrate any claim based upon an occurrence or event giving rise to the claim of more than six years will show that the case was dismissed. In most cases, the case was dismissed without prejudice so that the complainant could file a claim in a district court. Cristo is prepared to find and record all such cases should his motion be granted.

In the instant case, Cristo sought the advice of FINRA by calling to determine the eligibility of Cristo's claim for FINRA Arbitration. FINRA advised Cristo to file his claim in district court. Cristo filed his claim in District Court, only to have Charles Schwab Corp, et al, ("Schwab") file a motion to compel arbitration, for which the Court claimed it had no discretion but to grant Schwab's motion. Both Schwab and FINRA knew the events that gave rise to any claim for arbitration were more than a decade old.

Schwab was able to force an otherwise ineligible claim into FINRA Arbitration by virtue of a portion of Rule 12206(c) that states (emphasis added):

“ . . . , nor shall the six-year time limit on the submission of claims apply to any claim that is directed to arbitration by a court of competent jurisdiction upon request of a member or associated person.”

The portion cited above, effectively guarantees that a FINRA Arbitration will be at the sole-option of the FINRA member firm and be exempt from any statute of limitation if the member firm so desires.

Where the member firm seeks to bar a claim from arbitration, it merely files a motion to dismiss based upon Rule 12206(a). Where the member firm prefers a non-public, FINRA arbitration venue with limited discovery and outside of judicial review, the member merely files a motion to force arbitration via Rule 12206(c). Customers and clients of member firms have no such option, suggesting that FINRA is protecting members from clients as opposed to protecting investors from its members.

Cristo sought to obtain a pre-hearing dismissal since FINRA had declared the claim ineligible and directed Cristo to the district court. However, the wording of Rule 12206(b) requires a claim to be filed and answered first—thereby ensuring the venue best suited for its member firms.

Confusion exists because of the inconsistent treatment of Rule 12206 prior to FINRA's assumption of the NASD rule. Current court decisions, however, suggest a trend toward treatment of Rule 12206 as a statute of limitations.

In the instant case, FINRA's senior management refused to take a position when directly asked, other than advising Cristo to file a claim in arbitration.

Cristo also seeks leave to submit credible, compelling evidence that establishes without any doubt, that Schwab had violated Cristo's constitutional rights and his protections under the RFPA, prior to January 10, 2007.

The Commission has the ultimate responsibility to insure fairness in disputes between clients and FINRA member firms. FINRA's practice of refusing to produce records by declaring them privileged attorney work-product suggests Schwab is FINRA's client. If that stands, the Commission will have relinquished its authority to its subordinate.

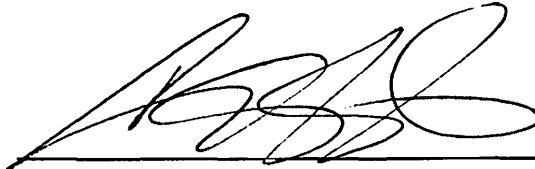
CONCLUSION

Because the sampling of cases researched has shown a strict observance of FINRA Rule 12206(a), when a member firm seeks to have the claim dismissed, Cristo seeks leave to adduce evidence from the entire record of FINRA cases.

This case is unique in that Cristo, upon the advice of FINRA, filed in District Court, because the events giving rise to his claim were more than a decade old. FINRA has acted in such a way to be protective of its member firm and therefore shows bias to the firms it polices.

The additional evidence will justify the Commission's need to claim jurisdiction in this case.

March 22, 2019



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CERTIFICATE OF SERVICE

I hereby certify that Constantine Gus Cristo's MOTION OF CONSTANTINE CRISTO FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE has been sent to the following parties entitled to notice as follows:

SECURITIES AND EXCHANGE COMMISSION,
Office of the Secretary
100 F Street N.E.
Washington D.C. 20549 U.S.A.

FINRA
Office of the General Counsel
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Washington DC 20006 U.S.A.

March 22, 2019



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