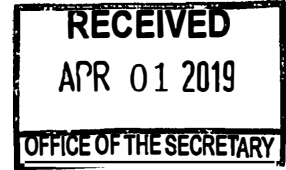


**BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C.**



In the Matter of the Application of  
Constantine Gus Cristo  
For Review of Action Taken by  
Financial Industry Regulatory Authority  
File No. 3-18539

**FINRA'S OPPOSITION TO APPLICANT'S MOTION FOR LEAVE  
TO ADDUCE ADDITIONAL EVIDENCE**

Alan Lawhead  
Vice President and  
Director – Appellate Group

Andrew Love  
Associate General Counsel

Megan Rauch  
Associate General Counsel

FINRA  
1735 K Street, N.W.  
Washington, D.C. 20006  
(202) 728-8863

April 1, 2018

**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

File No. 3-18539

**FINRA'S OPPOSITION TO APPLICANT'S MOTION FOR LEAVE  
TO ADDUCE ADDITIONAL EVIDENCE**

Applicant Constantine Gus Cristo seeks leave to adduce additional evidence concerning FINRA's practices related to arbitration claims where six years have elapsed from the occurrence giving rise to the arbitration claim. The Commission should deny this motion because it is not relevant to the issue of jurisdiction pending before the Securities and Exchange Commission ("Commission") and, regardless, the Commission does not have jurisdiction to consider the application for review.

Cristo, a former customer of Charles Schwab Corporation ("Charles Schwab"), filed an application on June 11, 2018, requesting that the Commission review FINRA's decision not to further investigate Cristo's allegations that Charles Schwab unlawfully disclosed Cristo's financial information to the Internal Revenue Service and review FINRA staff's refusal to declare that Cristo's grievances against Charles Schwab are ineligible for FINRA arbitration. On July 17, 2018, the Commission ordered the parties to submit briefs limited to the issue of whether the Commission has jurisdiction over this appeal pursuant to Section 19(d)(2) of the

Securities Exchange Act of 1934 (“Exchange Act”). Briefing was completed on October 1, 2018, and the parties are awaiting a decision from the Commission with respect to jurisdiction. Despite the fact that the Commission has yet to rule on the issue of jurisdiction, Cristo now seeks leave to adduce additional evidence.

The Commission should deny the motion because, among other things, it violates the Commission’s briefing order that explicitly limits the parties’ briefing to the subject of jurisdiction. Cristo’s proffered additional evidence does not relate to whether the Commission has jurisdiction over this appeal pursuant to Section 19(d)(2). Indeed, the motion does not even cite Section 19(d)(2) or mention the issue of jurisdiction.

Moreover, for the reasons more fully explained in FINRA’s Response to Applicant’s Initial Brief on the Issue of Jurisdiction, the Commission does not have jurisdiction to consider Cristo’s application for review. FINRA’s decision not to further investigate Cristo’s allegations against Charles Schwab and its refusal to declare Cristo’s grievances ineligible for arbitration are not reviewable under any of the four prongs that establish Commission jurisdiction under Section 19(d). Because FINRA took no action within the meaning of Section 19(d) of the Exchange Act that is subject to review by the Commission, the Commission should dismiss Cristo’s application for review for lack of jurisdiction, thereby rendering Cristo’s motion for leave to adduce additional evidence moot.

In sum, the motion is not relevant to the issue of jurisdiction pending before the Commission, and the Commission does not have jurisdiction to consider this application for

review. Therefore, the Commission should deny the motion and dismiss Cristo's application for review for lack of jurisdiction.<sup>1</sup>

Respectfully submitted,



Megan Rauch  
Associate General Counsel  
FINRA  
1735 K Street, NW  
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(202) 728-8863

Date: April 1, 2019

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<sup>1</sup> In the event that Commission finds that it has jurisdiction to consider the application for review, FINRA respectfully requests that the Commission grant FINRA the right to file a response to the motion addressing the substantive issues as to why the motion does meet the requirements of Rule 452 of the Commission's Rules of Practice.

CERTIFICATE OF SERVICE

I, Megan Rauch, certify that on this 1<sup>st</sup> day of April 2019, I caused a copy of the foregoing FINRA's Opposition to Applicant's Motion for Leave to Adduce Additional Evidence, in the matter of Application for Review of Constantine Gus Cristo, Administrative Proceeding No. 3-18539, to be served by messenger on:

Vanessa A. Countryman, Acting Secretary  
Securities and Exchange Commission  
100 F St., NE  
Washington, DC 20549-1090

and via certified mail and electronic mail on:

Constantine Gus Cristo  
P.O. Box [REDACTED]  
Valley Center, CA [REDACTED]  
[REDACTED]@protognosis.org

Service was made on the Commission by messenger and Applicant by mail due to the distance between the offices of FINRA and Applicant.



Megan Rauch  
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Associate General Counsel

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Fax: (202) 728-8264

April 1, 2019

**VIA MESSENGER**

Vanessa A. Countryman  
Acting Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Room 10915  
Washington, DC 20549-1090



**RE: In the Matter of the Application for Review of Constantine Gus Cristo**  
**Administrative Proceeding No. 3-18539**

Dear Ms. Countryman:

Enclosed please find the original and three copies of FINRA's Opposition to Applicant's Motion for Leave to Adduce Additional Evidence in the above-referenced matter.

Please contact me at (202) 728-8863 if you have any questions.

Sincerely,

Megan Rauch

cc: Constantine Gus Cristo  
Brennan Love