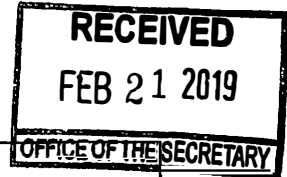


**HARD COPY**

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



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In the Matter of the Application of  
Michael Patrick Nanto  
For Review of Action Taken by  
Financial Industry Regulatory Authority  
File No. 3-18553

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**FINRA'S MOTION TO DISMISS APPEAL AS ABANDONED**

On June 19, 2018, Michael Patrick Nanto (“Nanto”) filed an application seeking the Commission’s review of a FINRA action that barred him from associating in any capacity with any FINRA member because he failed to comply completely with a FINRA Rule 8210 request for documents and information. FINRA moved to dismiss Nanto’s application on August 7, 2018, because he failed to exhaust his administrative remedies prior to filing his application with the Commission. Nanto did not file a response to FINRA’s motion.

On August 14, 2018, however, Nanto wrote to the Commission acknowledging FINRA’s motion and requesting, among other things, a copy of all documents that he sent to or received from FINRA.<sup>1</sup> Thereafter, on December 12, 2018, the Commission directed FINRA to provide a complete copy of the certified record to Nanto.<sup>2</sup>

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<sup>1</sup> In accordance with Rule 420(e) of the Commission’s Rules of Practice, on July 3, 2018, FINRA filed the certified record with the Commission and served Nanto with a copy of the index to the certified record.

<sup>2</sup> The Commission’s order also postponed briefing on the merits of Nanto’s application for review pending resolution of FINRA’s August 7, 2018 motion to dismiss.

As directed by the Commission, FINRA served Nanto with a copy of the certified record by sending it, via Fed Ex, to his CRD® address. *See* Attachment A. Under Rule 150(d) of the Commission's Rules of Practice, FINRA complied fully with the Commission's December 12, 2018 order when FINRA completed service on December 14, 2018. *See* Attachment B.

The Commission's December 12, 2018 order also directed Nanto to file a response to FINRA's August 7, 2018 motion to dismiss within 30 days after FINRA served him with a copy of the certified record. Nanto nevertheless did not serve FINRA with a response within the period established by the Commission's order. Consequently, on January 23, 2019, FINRA wrote Nanto and requested that he advise FINRA whether he filed a response to FINRA's motion with the Commission, reminding him also of the service requirements imposed under Rule 150(a) of the Commission's Rules of Practice. *See* Attachment C. Nanto did not respond to FINRA's letter.

To this date, Nanto has not served FINRA with a response to FINRA's August 7, 2018 motion to dismiss. On February 14, 2019, FINRA contacted the Commission's Office of the Secretary and it informed FINRA that the Commission has no record of Nanto filing a response to FINRA's dispositive motion. Accordingly, under Rules 155(a)(2) and 180(c)(1) of the Commission's Rules of Practice, FINRA requests that the Commission treat Nanto's appeal as abandoned and dismiss his application for review. *See* 17 C.F.R. §§ 201.155(a)(2), .180(c)(1). His failure to respond to FINRA's dispositive motion within the time provided under the Commission's December 12, 2018 order provides a well-founded basis to dismiss this review proceeding. *See Paul E. Taboda*, Exchange Act Release No. 82970, 2018 SEC LEXIS 823, at \*3 (Mar. 30, 2018) (dismissing application for review where the applicant failed to file a brief in support of his application or in response to FINRA's motion to dismiss); *see also Behnam*

*Halali*, Exchange Act Release No. 79722, 2017 SEC LEXIS 31, at \*10 n.12 (Jan. 3, 2017) (finding applicant's failure to respond to FINRA's motion to dismiss due to applicant's failure to exhaust his administrative remedies provided "independent" reason to terminate the review proceeding).

Respectfully submitted,



Gary Dernelle  
Associate General Counsel  
FINRA  
1735 K Street, NW  
Washington, DC 20006  
(202) 728-8255

Date: February 21, 2019

# **ATTACHMENT A**



Financial Industry Regulatory Authority

Gary Dernelle  
Associate General Counsel

Direct: (202) 728-8255  
Fax: (202) 728-8264

SEC  
Mail Processing  
Section  
DEL 137018  
Washington, DC  
415

December 13, 2018

**Via FedEx**

Michael Patrick Nanto  
[REDACTED]  
Rapid City, SD [REDACTED]  
[REDACTED]@mnanto.com

RE: In the Matter of the Application for Review of Michael Patrick Nanto  
Administrative Proceeding No. 3-18553

Dear Mr. Nanto:

In accordance with the Securities and Exchange Commission's December 12, 2018 order, enclosed please find a copy of the certified record that FINRA filed in this matter on July 3, 2018, with the Commission. As a courtesy, enclosed also is a copy of the index to the certified record that FINRA previously served on you in accordance with Commission Rule of Practice 420(e). Please note that, under Rule 150(a) of the Commission's Rules of Practice, you must serve FINRA with a copy of each motion, brief, or other written communication that you file with the Commission. You may effect service on FINRA by sending such materials to:

Gary Dernelle  
Office of General Counsel  
FINRA  
1735 K Street, N.W.  
Washington, D.C. 20006

Very truly yours,

Gary Dernelle

Enclosures

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

**CERTIFICATE OF SERVICE**

I, Gary J. Dernelle, certify that, on this 13<sup>th</sup> day of December 2018, in accordance with the Commission's order dated December 12, 2018, I caused one copy of the certified record, and one copy of the index to the certified record, in the matter of Application for Review of Michael Patrick Nanto, Administrative Proceeding No. 3-18553, to be served by FedEx on:

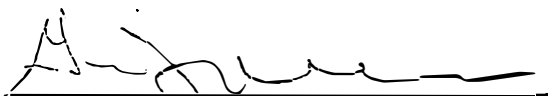
Michael Patrick Nanto  
[REDACTED]  
Rapid City, SD [REDACTED]

On this date, I also caused one copy of the transmittal letter implementing service of the foregoing materials, which FINRA filed with the Commission on July 3, 2018, to be served via messenger on:

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

FINRA used different means of service for the applicant due to the distance between the offices of FINRA and the applicant.

Respectfully submitted,



\_\_\_\_\_  
Gary Dernelle  
Associate General Counsel  
FINRA  
1735 K Street, NW  
Washington, DC 20006  
(202) 728-8255

ORIGIN ID: BZSA (202) 728-8255  
GARY DERNELLE, ESQ.  
FINRA - OFFICE OF GENERAL COUNSEL  
1735 K ST NW

WASHINGTON, DC 20006  
UNITED STATES US

SHIP DATE: 13DEC18  
ACTWGT: 3.00 LB  
CAD: 2741573/NET4040

BILL SENDER

TO MICHAEL PATRICK NANTO

[REDACTED]

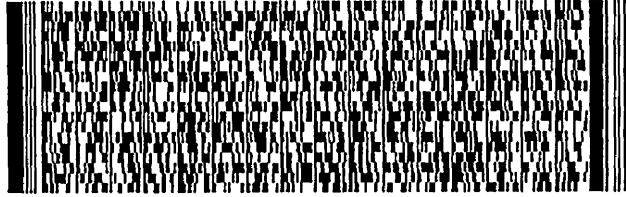
RAPID CITY SD [REDACTED]

REF: 40520/DC

INV.  
PO:

DEPT:

552,02,0E4AF,DCAS



FedEx  
Express



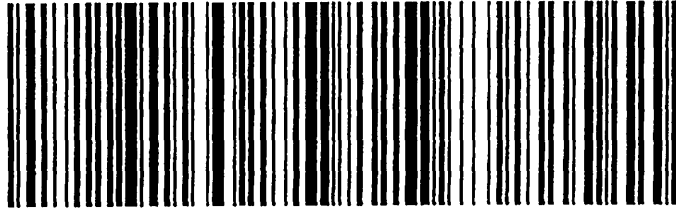
J182118011550147

FRI - 14 DEC 10:30A  
PRIORITY OVERNIGHT

TRK# 7739 6806 3147  
0201

XH RAPA

57703  
SD-US FSD



**After printing this label:**

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

**Warning:** Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on [fedex.com](http://fedex.com). FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

# **ATTACHMENT B**





January 18, 2019

Dear Customer:

The following is the proof-of-delivery for tracking number **773968063147**.

---

**Delivery Information:**

---

<b>Status:</b>	Delivered	<b>Delivered to:</b>	Residence
<b>Signed for by:</b>	Signature not required	<b>Delivery location:</b>	RAPID CITY, SD
<b>Service type:</b>	FedEx Priority Overnight	<b>Delivery date:</b>	Dec 14, 2018 10:30
<b>Special Handling:</b>	Deliver Weekday Residential Delivery		

**NO SIGNATURE REQUIRED**

Proof-of-delivery details appear below; however, no signature is available for this FedEx Express shipment because a signature was not required.

---

**Shipping Information:**

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<b>Tracking number:</b>	773968063147	<b>Ship date:</b>	Dec 13, 2018
		<b>Weight:</b>	5.0 lbs/2.3 kg

**Recipient:**  
RAPID CITY, SD US

**Shipper:**  
WASHINGTON, DC US

**Reference**

40520/DC

Thank you for choosing FedEx.

ORIGIN ID: BZSA (202) 728-8255  
GARY DERNELLE, ESQ.  
FINRA - OFFICE OF GENERAL COUNSEL  
1735 K ST NW

SHIP DATE: 23JAN19  
ACTWGT: 1.00 LB  
CAD: 2741573/NET4100

WASHINGTON, DC 20006  
UNITED STATES US

BILL SENDER

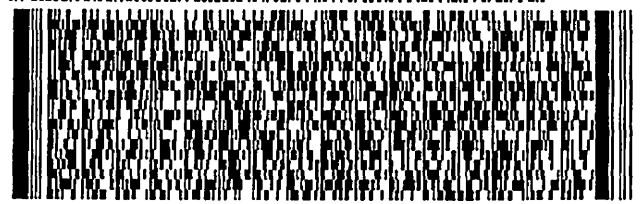
TO MICHAEL PATRICK NANTO

6 [REDACTED] E

RAPID CITY SD [REDACTED]  
[REDACTED] 215 [REDACTED] REF: 40520/DC

INV: PO: DEPT:

565LDJ74C23AD

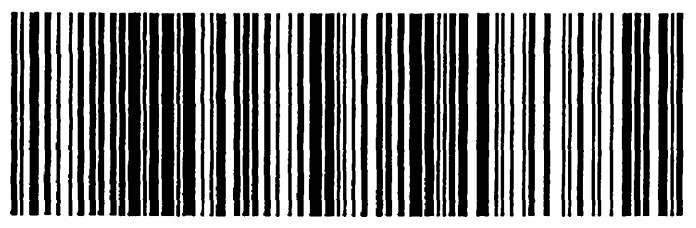


THU - 24 JAN 10:30A  
PRIORITY OVERNIGHT

TRK# 7742 8734 7840  
0201

XH RAPA

57703  
SD-US FSD



After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

**Warning:** Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on [fedex.com](http://fedex.com). FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

# **ATTACHMENT C**

**Gary Dernelle**  
Associate General Counsel

Direct: (202) 728-8255  
Fax: (202) 728-8264

January 23, 2019

**Via FedEx and Email**

Michael Patrick Nanto  
[REDACTED]  
Rapid City, SD [REDACTED]  
[REDACTED]@mnanto.com

RE: In the Matter of the Application of Michael Patrick Nanto For Review of  
Action Taken by FINRA: Admin. Proc. File No. 3-18553

Dear Mr. Nanto,

On December 12, 2018, the Securities and Exchange Commission ordered FINRA to provide you with one copy of the certified record that FINRA filed in this matter with the Commission on July 3, 2018. As directed by the Commission's December 12, 2018 order, and as permitted under Rule 150(c) of the Commission's Rules of Practice, FINRA served you with a copy of the certified record by sending it to your CRD® address by FedEx on December 13, 2018. *See* Attachment A. Under Rule 150(d) of the Commission's Rules of Practice, FINRA fully complied with the Commission's December 12, 2018 order when FINRA completed service and FedEx delivered the copy of the certified record to your CRD® address on December 14, 2018. *See* Attachment B.

The Commission's December 12, 2018 order further permitted you to file, within 30 days after FINRA served you with a copy of the certified record, a response to FINRA's August 7, 2018 motion to dismiss your application for review. It is now greater than 38 days after FINRA effected service of a copy of the certified record in compliance with the Commission's order. To date, however, FINRA has not received a copy of your responsive brief. I therefore respectfully request that you promptly advise me whether you filed with the Commission a response to FINRA's August 7, 2018 motion to dismiss. I request further that, if you filed such a brief with the

Michael Patrick Nanto  
January 23, 2019  
Page 2

Commission, you serve FINRA with a copy of your response in accordance with Rule 150(a) of the Commission's Rules of Practice.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gary Demelle", with a long horizontal flourish extending to the right.

Gary Demelle

Enclosures