

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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In the Matter of the Application of :
Trevor Michael Saliba :
For Modification of Action Taken by FINRA :
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Disciplinary Proceeding
No. 2013037522501

3-18989

**APPLICATION OF TREVOR MICHAEL SALIBA FOR
MODIFICATION OR REVERSAL OF DECISION OF
THE FINANCIAL INDUSTRY REGULATORY
AUTHORITY'S NATIONAL ADJUDICATORY
COUNCIL**

Dated: February 6, 2019
Coral Gables, Florida

Respectfully submitted,

Hunter Taubman Fischer & Li LLC



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Pursuant to Rule 420 of the Commission's Rules of Practice and Sections 19(d)(1) and 19(f) of the Securities Exchange Act of 1934, 15 U.S.C. § 78s(d)(1) (the "Exchange Act"), Trevor Michael Saliba ("Mr. Saliba") hereby submits this application for modification or reversal of the decision by the Financial Industry Regulatory Authority's ("FINRA") National Adjudicatory Council ("NAC"), dated January 8, 2019 (the "NAC Decision").

I. Procedural History

On approximately December 15, 2017, a FINRA Office of Hearing Officers' Extended Hearing Panel ("OHO Panel") issued its Extended Hearing Panel Decision ("OHO Decision"), finding that Mr. Saliba: (1) violated FINRA Rule 2010 by acting as a principal in violation of interim restrictions imposed by Member Regulation; (2) violated FINRA Rules 8210 and 2010 by failing to cooperate with FINRA and providing false and misleading documents and information to FINRA by (a) providing certain purportedly false and misleading memoranda (referred to as the "JM Memos" and "Younger Memos") to FINRA, (b) making misrepresentations to FINRA regarding his use of computers for work with his member firm, and (c) failing to produce all computers he used for his firm business in response to FINRA's request; and (3) violated Rule 2010 by participating in the backdating of compliance forms while knowing such forms would be submitted to FINRA. *See* OHO Decision at 24-31; 35. For these purported violations, the OHO Panel imposed the unitary sanction of barring Mr. Saliba from association with any FINRA member firm in any capacity. *Id.* at 37-38. After Mr. Saliba timely appealed the OHO Decision to the NAC, the NAC Decision affirmed the improper and unsupported findings of the OHO Decision. *See* NAC Decision at 14-21; 22-24. The NAC concluded its review of the matter by disagreeing that the unitary sanction of a bar was appropriate, and finding that three separate bars in all capacities was appropriate. *Id.* at 27-28.

II. The Commission Should Modify or Reverse the NAC Decision Affirming the OHO Decision

The Commission should review the NAC Decision in this matter to determine whether Mr. Saliba engaged in the conduct that the NAC Decision affirmed, whether such purported conduct violates the statutes and rules that the NAC Decision found Mr. Saliba to have violated, and whether FINRA's rules were applied in a manner consistent with the purposes of the Exchange Act. Also among the Commission's responsibilities in reviewing the NAC Decision is to determine whether FINRA's rules have been applied in an unfair manner under the totality of the circumstances in this matter. *See, e.g.,* Harry Richardson, Exchange Act Release No. 34-51236, 2005 WL 424920, at *5 ("Congress clearly intended that the substantive fairness of [FINRA] deliberations [be] subject to the

Commission's review. . ."). Upon its determination that such standards were not met, the Commission should modify or reverse the NAC Decision.

Prior to this matter, Mr. Saliba had no prior disciplinary history with any securities regulator. With regard to the NAC's finding that Mr. Saliba violated the interim restriction by acting as a principal of a member firm while restricted from doing so by Member Regulation, Mr. Saliba does not contest that his conduct caused the member firm to violate an interim restriction. He simply contends that a sanction of a bar from association with any member firm in connection with the inadvertent mistake is excessive or oppressive. With regard to the NAC's finding that Mr. Saliba provided false and misleading documents and information to FINRA, Mr. Saliba respectfully contends that (1) he did not know that either the JM Memos or the Younger Memos were anything other than bona fide firm records, (2) he testified that he "may have" used more than one computer for member firm business, simply because he was not certain as to the issue, and (3) he produced all computers in his possession to FINRA when requested to do so. Accordingly, Mr. Saliba's conduct did not violate either Rule 8210 or 2010 as the NAC found. Finally, with regard to Mr. Saliba's backdating of compliance forms that he understood would be submitted to FINRA, he did so at the direction of Richard Daniel Tabizon ("Mr. Tabizon,") the member firm's Chief Compliance Officer, and with the understanding that a FINRA examiner had authorized Mr. Tabizon to recreate the documents. Noting those circumstances, Mr. Saliba's willingness to participate in the recreation of the compliance documents did not constitute a violation of Rule 2010 as the NAC found. Accordingly, Mr. Saliba's conduct either did not violate the FINRA rules that the NAC claims he violated, or the sanction of a bar from association with any member firm was substantively unfair, under the totality of the circumstances.¹

III. Conclusion

For the foregoing reasons, and those to be set forth in Mr. Saliba's briefs in support of this Application, the NAC Decision supporting the OHO Decision should be modified or reversed in its entirety.

¹ Although the page limitation of this initial Application limits Mr. Saliba's argument at this stage, Mr. Saliba will provide much greater detail of the unfair manner in which the NAC Decision was rendered under the totality of the circumstances in his detailed briefing in this matter, including identifying substantial evidence in the record to disturb the NAC's acceptance of the OHO Panel's erroneous substantive and credibility findings regarding Mr. Saliba, as well as the NAC's decision that Mr. Saliba's conduct in this matter violated the statutes and rules that the NAC Decision found he violated.

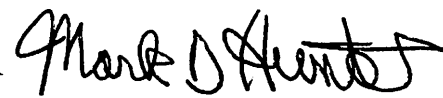
CERTIFICATE OF SERVICE

I hereby certify that, on February 6, 2018, I caused a true and correct copy of the Application of Trevor Michael Saliba for Modification or Reversal of Decision of the Financial Industry Regulatory Authority's National Adjudicatory Council, to be served upon the following by overnight mail, facsimile, and email transmission, addressed to:

Brent J. Fields
The Office of the Secretary
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February 6, 2019



Mark David Hunter

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3-18989

February 6, 2019

Via Federal Express, Facsimile, and Email Transmission

Brent J. Fields
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**Re: Department of Enforcement v. Trevor Michael Saliba, et al.
Disciplinary Proceeding No. 2013037522501**

Dear Mr. Fields:

We are counsel to Trevor Michael Saliba in connection with the above-referenced matter. Attached for filing is Mr. Saliba's Application for Modification or Reversal of Decision of the Financial Industry Regulatory Authority's National Adjudicatory Council, as well as a Certificate of Service. We are also sending four (4) hard copies by Federal Express to your attention, and request that one copy be stamped "filed" and returned to us in the enclosed, postage paid return envelope. Thank you for your attention to this matter.

Sincerely,

Mark David Hunter

cc: Cecilia Passaro
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