UNITED STATES OF AMERICA
BEFORE THE
UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of the Application of	:	
	:	
Trevor Michael Saliba	:	Administrative Proceeding
	:	File No. 3-18989
For Modification of Action Taken by FINRA	:	
	:	

REPLY BRIEF IN FURTHER SUPPORT OF APPLICATION OF TREVOR MICHAEL SALIBA FOR MODIFICATION OR REVERSAL OF DECISION OF THE FINANCIAL INDUSTRY REGULATORY AUTHORITY'S NATIONAL ADJUDICATORY COUNCIL

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I. PRELIMINARY STATEMENT

Pursuant to Rule 450 of the Securities and Exchange Commission's (the **"Commission"**) Rules of Practice, Trevor Michael Saliba (**"Mr. Saliba"**) hereby submits this reply brief in further support of his 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"**) (**"Reply Brief"**). For the reasons set forth in the Opening Brief in Support of Application of Trevor Michael Saliba for Modification or Reversal of Decision of the Financial Industry Regulatory Authority's National Adjudicatory Council (**"Opening Brief"**), and as further demonstrated herein, the Commission should modify or reverse the NAC Decision by ordering a reasonable lesser sanction against Mr. Saliba.

In FINRA's Brief in Opposition to the Application for Review (**"Opposition Brief"**), FINRA continues to assert that the NAC Decision was correct in imposing permanent bars from the securities industry on Mr. Saliba, relying largely upon purported inadequacies in Mr. Saliba's Opening Brief. The entire Opposition Brief is replete with unsubstantiated insistence, *ad hominem* arguments, and other defects of reasoning and mischaracterization of the record, wherein FINRA conveniently pays little to no attention to the glaring evidence in the record that establishes Mr. Saliba's position and highlights the fundamentally unfair manner in which the proceedings have been conducted to date. As demonstrated in Mr. Saliba's Opening Brief and further discussed herein, the permanent bars that the NAC imposed on Mr. Saliba are overly severe remedies which are not substantiated by evidence presented in the record. Accordingly, the NAC Decision is erroneous, fundamentally unfair, and should be modified or reversed in conjunction with the imposition of a lesser, more reasonable sanction against Mr. Saliba.

II. ARGUMENT

A. Mr. Saliba Did Not Violate FINRA Rule 8210 or 2010

As discussed in Mr. Saliba's Opening Brief, the NAC found that Mr. Saliba violated FINRA Rules 8210 and 2010 by providing the three memos signed by James Miller (**"Miller"**) (the **"JM Memo(s)"**) and the eighth "New Business Memo" signed by Sperry Younger (**"Younger"**) (the **"Younger Memo(s)"**) to FINRA in response to Rule 8210 requests. *See* Opening Brief at 10. The NAC further found that Mr. Saliba provided false and misleading information to FINRA regarding his work computer and failed to cooperate with FINRA's request to produce any work computer used for NMS Capital Securities, LLC (**"NMS Securities"** or the **"Firm"**) business. *Id.* As discussed in Mr. Saliba's Opening Brief, such determinations were erroneous because the record does not establish (1) Mr. Saliba's involvement in the preparation of the JM Memos or the eighth Younger Memo, (2) Mr. Saliba's knowledge that the JM Memos and eighth Younger Memo were false, (3) any knowingly false testimony from Mr. Saliba about his computer usage, or (4) that Mr. Saliba was in possession of a computer that was responsive to the subject Rule 8210 request but failed to produce such computer. *See id.* at 13.

i. The JM Memos and Eighth Younger Memo

FINRA's argument regarding Mr. Saliba's supposed knowledge that the JM Memos were falsified relied almost exclusively upon Miller's purported credible testimony that he had never seen the JM Memos before, and had not prepared or signed them. *See* Opposition Brief at 13. FINRA concluded the issue by noting that the NAC found no evidence to reverse the FINRA Office of Hearing Officers' Extended Hearing Panel's (**"OHO Panel"**) finding that Miller's testimony was credible. *Id.* The OHO Panel's finding that Miller's testimony was credible, and the NAC's acceptance of such notion, is precisely the type of conduct that illustrates the biased

and unfair nature of the OHO Panel's Extended Hearing Panel Decision (**"OHO Decision"**) and NAC Decision. Miller's testimony throughout the matter clearly indicated his lack of credibility, and countless other evidence in the record established that Miller's testimony was self-interested, biased, and unreliable. Notwithstanding, the OHO Panel and the NAC focused heavily on Miller's unequivocal attestation that he did not create or sign the JM Memos, while completely ignoring (1) Miller's motive to avoid his own regulatory scrutiny by telling the story most pleasing to FINRA and (2) the multiple blatant inconsistencies in his testimony.

Miller's testimony in connection with the FINRA Disciplinary Proceeding was inconsistent almost at the outset. When Miller was asked whether he performed any compliance activities while he was at NMS Securities, rather than respond in the affirmative, Miller alluded that he simply conferred with Richard Tabizon (**"Tabizon"**) from time to time on the phone to stay "up to speed" on compliance matters. RBN 001610. However, the record undisputedly reflects that Miller did in fact perform compliance activities. RBN 001615 (Miller emails Firm employees to request completion of an outstanding Firm compliance and management requirement); RBN 001646 – RBN 001647; RBN 005075; RBN 005093. Furthermore, the record is replete with instances that discredit Miller. RBN 001631 – RBN 001632 (Miller did not recall that he was NMS Securities' Chief Executive Officer (**"CEO"**)); RBN 001641, RBN 001646 – RBN 001649, RBN 005093 (The record reflects that Miller was copied on email correspondence in connection with the July 2012 Continuing Membership Application (**"CMA"**) (**"July 2012 CMA"**) process despite him denying his involvement, and further reflects Miller's knowledge of the August 15, 2012, interim restrictions imposed on the Firm by FINRA's Membership Application Program Group (**"MAP"**) (**"Interim Restrictions"**)) despite his denial of such knowledge.); RBN 001658, RBN 005067 (Miller denies knowledge of Mr. Saliba's meeting with MAP staff in New York on

September 25, 2012 (the **"September 25 MAP Meeting"**) although the record reflects that he was copied on email correspondence in connection with such); RBN 001666, RBN 005854 at p.86, lines 10-16 (Miller conveniently expresses confusion as to what is considered a "memo" in his testimony provided in connection with the Disciplinary Proceeding but expressed no such confusion in his previous on the record testimony (**"OTR"**)); RBN 001677, RBN 005077 (Miller denies ever authorizing anyone at NMS Securities' Beverly Hills, California office to sign his name on documents on his behalf. However, the record contains email correspondence from Miller to Mr. Saliba where Miller states that he should not have allowed a document to be sent out under his signature; RBN 001608, RBN 001614, RBN 001680 (Miller initially testifies at the Disciplinary Proceeding that he did not view himself as Mr. Saliba's supervisor. Later, in that very same proceeding, Miller completely contradicts this position by noting that the reason he was hired as CEO of the Firm was because Mr. Saliba had recently passed his Series 24 exam and needed a senior supervisory principal involved in certain of Mr. Saliba's activities. Miller changed his testimony yet again at the Disciplinary Proceeding when he later professed a lack of knowledge that Mr. Saliba was prohibited from acting in a supervisory or principal capacity – notably, the very same reason he provided moments early for being hired as CEO of the Firm). Miller's testimony is incontrovertibly inconsistent with the evidence in the record. Nevertheless, the OHO Panel and later the NAC found Miller to be a credible witness. However, both the OHO Panel's decision and the NAC Decision as it relates to Miller's credibility is completely disjointed from the evidence in the record, and any fair assessment of the record must necessarily deem Miller's testimony to be either unreasonably absent-minded (at best) or knowingly false and misleading (at worst).

In its Opposition Brief, FINRA asserts that Mr. Saliba's "statements about how he found the [JM Memos] has shifted throughout these proceedings and his [Opening Brief] fails to address these inconsistencies." *See* Opposition Brief at 30-31. Mr. Saliba initially recalled locating the JM Memos in a file at NMS Securities' Beverly Hills, California office, but could not specifically recall the actual file in which he found them. RBN 002107 – RBN 002108. He subsequently remembered that he located them in a box at that same office. RBN 002107 – RBN 002108. Nothing about such a minor change in recollection – i.e., locating the JM Memos in a file versus a box, at the same office location – suggests anything nefarious by Mr. Saliba. There is no evidence establishing that Mr. Saliba either falsified the JM Memos or had knowledge of their falsity. Neither FINRA's continued insistence in relying upon Miller's inconsistent testimony, nor any argument contained in FINRA's Opposition Brief, addresses that deficiency.

Similarly, FINRA's argument regarding Mr. Saliba's supposed knowledge that the eighth Younger Memo was falsified also relies heavily on the OHO Panel's determination that Younger's testimony was not credible. FINRA points to no other evidence in the record – other than to note that Mr. Saliba has presented nothing to disturb the OHO Panel's finding that Younger's testimony was not credible – that establishes that Mr. Saliba knew of the alleged falsity of the eighth Younger Memo. *See* Opposition Brief at 31. To the contrary, Mr. Saliba and FINRA have agreed that Younger confirmed that he signed the eighth Younger Memo. *See* Opening Brief at 6 ("Although Younger confirmed that he signed the eighth Younger Memo, he did not provide that memo to Mr. Saliba via email."); *see also* Opposition Brief at 31 ("Younger testified that he created and signed the Younger Memos, including the memo for KO Café Ventures [i.e., the eighth Younger Memo], on the date indicated in each memo."). In light of such agreement, nothing in the record justifies

the conclusion that Mr. Saliba was somehow supposed to know that the eighth Younger Memo was false.

In conclusion, no reasonable de novo review of the record herein supports the conclusion that Mr. Saliba "knew or should have known" that the JM Memos or the eighth Younger Memo were falsified when Mr. Saliba produced them to MAP and Enforcement, and the Commission should reverse any related finding that Mr. Saliba violated FINRA Rules 8210 and 2010.

ii. Mr. Saliba's Work Computer

FINRA continues to assert that Mr. Saliba testified falsely that he only used one computer for NMS Securities business, and failed to produce all computers he used for NMS Securities business in response to FINRA Rule 8210 request. *See* Opposition Brief at 32. In its attempt to salvage the NAC Decision, FINRA advanced the following arguments: (1) Mr. Saliba's communications with his computer support contractor . . . contradicts his claim that he gave the second computer to his wife and thus did not possess it; (2) Mr. Saliba did not establish that the second computer was not in his custody or control; and (3) Mr. Saliba's claim that he used computers other than his work computer on a rare occasion is inconsistent with the forensic evidence. *See* Opposition Brief at 32-33. As discussed in Mr. Saliba's Opening Brief (with numerous accompanying citations to the official record) and reiterated herein, Mr. Saliba produced the only responsive computer in his possession. *See* Opening Brief at 7. Mr. Saliba's Opening Brief cited multiple instances in the underlying record where he testified that it was possible, on rare occasions, that he may have used his personal home computer to access Firm emails but that he did not recall. *Id.* He also testified that he may, at times, have used a hotel business center or his wife's computer to check his email. *Id.* at 8. Finally, he testified that traveling without his work computer was not problematic because he was able to conduct NMS Securities business

through his phone. *Id.* Finally, Mr. Saliba testified at numerous times that he provided FINRA with the only computer that he used for NMS Securities' business that was in his possession at the time FINRA served him with the subject Rule 8210 request. *Id.* at 7. Although NMS Capital Group, LLC purchased a laptop computer that Mr. Saliba originally intended to replace his existing work computer for NMS Securities' business, Mr. Saliba gave that computer to his wife for her use rather than utilizing it for NMS Securities' business. *Id.* His wife ultimately recycled that computer. *Id.* FINRA's insistence to remain willfully blind to this significant and uncontroverted evidence is precisely why Mr. Saliba suggests the NAC Decision (ratifying the underlying OHO Decision) blatantly abandoned any sense of fairness.

In its Opposition Brief, FINRA has asserted that communications between Mr. Saliba and his computer support contractor "strongly indicate that the [s]econd [c]omputer was [Mr. Saliba's] replacement work computer." *See* Opposition Brief at 17. In arriving at this conclusion, FINRA notes that the communication between Mr. Saliba and his computer support contractor references his "replacement laptop," "new workstation," and backups of Mr. Saliba's "old workstation." *Id.* at 32. However, such references to "replacement laptop," "new workstation," and backups of Mr. Saliba's "old workstation" do not negate the fact that Mr. Saliba ultimately relinquished the second computer to his wife. As noted both in Mr. Saliba's Opening Brief and herein, Mr. Saliba initially intended to use the second computer at the time it was purchased, but ultimately decided to give the second computer to his wife for her use. Accordingly, the computer support contractor preparing a second computer for Mr. Saliba's use does nothing to contradict Mr. Saliba's testimony about ultimately giving the laptop to his wife. Neither FINRA's forensic expert, nor its suggestion of an alternate story (that is no more believable than Mr. Saliba's testimony), established that Mr. Saliba's testimony was false.

FINRA has further asserted that Mr. Saliba did not establish that the second computer was not in his custody or control, and further insisted that Mr. Saliba should have immediately provided a reason why he could not produce all computers he had used for NMS Securities' business even if the second computer had been recycled by the time FINRA served its Rule 8210 request. *Id.* at 32-33. Such argument is erroneous for two reasons. First, as noted in Mr. Saliba's Opening Brief and herein, Mr. Saliba consistently advised FINRA that he had produced all responsive computers in his possession. He also noted that he did not use the purported "second computer" for NMS Securities' business, but instead gave the computer to his wife. FINRA is well aware that Rule 8210 governs the conduct of "a [FINRA] member, person associated with a [FINRA] member, or any other person subject to FINRA's jurisdiction . . ." *See Id.* at 29. FINRA does not – and cannot – assert that Rule 8210 provides FINRA with the authority to demand that Mr. Saliba's wife provide her laptop to Mr. Saliba to enable him to produce the laptop to FINRA, even if such laptop had not been recycled. Mr. Saliba has certainly established that the second computer was not in his custody or control. In attempting to justify overly harsh treatment of Mr. Saliba, FINRA seems to be adopting some outlandish positions in this matter.

Finally, FINRA has insisted that Mr. Saliba's claim that it was possible, on rare occasions, that he used other computers to access Firm emails is inconsistent with forensic evidence. *Id.* at 33. FINRA based its position on its forensic expert's testimony that (1) the usage on Mr. Saliba's work computer dropped significantly after the purchase of the second computer, (2) the computer was completely turned off for a period of seven weeks, and (3) Mr. Saliba continued to work on documents and send emails during that time frame. *Id.* FINRA has conveniently omitted numerous factors that (1) corroborated Mr. Saliba's assertions and (2) undermined FINRA's forensic expert's testimony.

As discussed in Mr. Saliba's Opening Brief and herein, Mr. Saliba testified that he did not travel with his work computer and may have, at times, used a hotel business center or his wife's computer to check his email. Traveling without his computer was never an issue for Mr. Saliba, who largely conducted Firm business through his phone and email. Furthermore, the record is devoid of any indication that Mr. Saliba was unable to fully conduct business from his phone without the use of a computer – and more specifically, without the use of the relevant second computer. FINRA's forensic expert's testimony conveniently ignored crucial facts that demonstrated that his analysis of Mr. Saliba's work computer usage for the April 25, 2013, through May 25, 2013, time period was unreliable in determining (1) whether Mr. Saliba used a second computer to conduct NMS Securities' business, or (2) whether the baseline month that the forensic expert used in his analysis was an accurate reflection of Mr. Saliba's typical computer usage on a monthly basis. RBN 002277 – RBN 002280; RBN 002286; RBN 002288 – RBN 002290.

The unreliability of the forensic expert's testimony was particularly notable when he testified that he did not analyze any data prior to the baseline period of April 25, 2013, through May 25, 2013, and was unable to determine if something during that 30-day period caused Mr. Saliba's usage to be an anomaly. RBN 002286. The forensic expert also testified that he did not determine whether – during the April 25, 2013, through July 22, 2013, time frame – there was any period where Mr. Saliba's work computer was turned off for an entire day or period of days. RBN 002276. The forensic expert also confirmed that he did not analyze trends in the way Mr. Saliba's computer was used as part of his investigation, and therefore did not assess whether there were certain days or weeks where there was high usage and others where there was low usage. RBN 002278. He testified that in conducting his analysis and preparing his report, he did not review Mr. Saliba's business calendar, nor did he note Mr. Saliba's whereabouts on any of the time periods

included in his report. RBN 002288 – RBN 002289. The forensic expert further testified that he did not compare the usage on Mr. Saliba's work computer with usage on any of Mr. Saliba's colleagues at the Firm. RBN 002289. Finally, he testified that his analysis did not compare usage based on the type of work Mr. Saliba conducts, nor did his analysis exclude usage events based on Mr. Saliba's personal use of his work computer. RBN 002289. Accordingly, the forensic expert did not conduct a thorough inquiry into this matter to be able to credibly determine whether Mr. Saliba's computer usage "dropped significantly."

The forensic expert's report noted that "Mr. Saliba created, accessed and modified data during the April 25, 2013 through May 25, 2013 time period and [his] analysis shows a dramatic drop-off of usage during the May 25 2013, through June 19, 2014 time period due to the fact that Mr. Saliba had purchased a new computer . . ." RBN 002819. Notwithstanding his assertion that Mr. Saliba's computer showed "a dramatic drop-off of usage" due to Mr. Saliba's purchase of a new computer, the forensic expert admitted that he had not seen any evidence showing that Mr. Saliba used a different computer than the one he analyzed. RBN 002287.

Aside from reviewing emails concerning Mr. Saliba's purchase of a new computer, the forensic expert was unaware of any evidence establishing that such purchase caused the decrease in Mr. Saliba's computer usage. RBN 002290. The forensic expert's knowledge that a second computer had been purchased set the tone for his analysis and resulted in a biased assessment of Mr. Saliba's computer usage that failed to take numerous relevant facts into account. RBN 002290. Although FINRA relies heavily on the forensic expert's testimony regarding the decline in usage of Mr. Saliba's work computer, it conveniently omits the fact that the forensic expert's testimony revealed that his analysis omitted important considerations and factors that would have most likely changed the outcome of his report or rendered him unable to reach any expert opinion.

Ultimately, the Commission should afford little weight to FINRA's retained and paid expert witness in this matter due to the blatant unreliability of his analysis and opinions.

B. Mitigating Factors Warrant a Reduced Sanction for Mr. Saliba

i. The Interim Restrictions Were Ambiguous and Confusing

In its Opposition Brief, FINRA purposefully mischaracterized Mr. Saliba's position regarding the confusing nature of the Interim Restrictions by claiming that Mr. Saliba "argues that he did not violate the [I]nterim [R]estrictions . . ." Opposition Brief at 25. FINRA's assertion is disingenuous as Mr. Saliba explicitly noted in the Opening Brief that his "understanding regarding the parameters of the Interim Restrictions was incorrect and caused him to engage in activities that violated the Interim Restrictions." Opening Brief at 18 ("To the extent Mr. Saliba violated the Interim Restrictions he did not do so in bad faith); *see also* Opening Brief at 5 (noting that Mr. Saliba "***erroneously*** believed that supervisory approval would ensure that he did not violate the Interim Restrictions") (emphasis added). At no point in the Opening Brief does Mr. Saliba argue that he did not violate the Interim Restrictions. **The Commission should question why FINRA would continue to advance arguments in this matter that it fully knows to be disingenuous if it truly believes that Mr. Saliba's sanction is fair and just.**

FINRA has asserted that Mr. Saliba's claim that the Interim Restrictions were confusing does not withstand scrutiny. *See* Opposition Brief at 25. FINRA's assertion is baseless as one need only note FINRA's own staff's confusion regarding the Interim Restrictions. As noted in Mr. Saliba's Opening Brief, there are multiple instances throughout the record in this matter where Mr. Saliba asserted that the Interim Restrictions were confusing in light of the circumstances. *See* Opening Brief at 16; *see also* RBN 001937 – RBN 001940; RBN 001942. For example, Mr. Saliba explained in his Opening Brief that the OHO Panel's Hearing Officer in the Disciplinary

Proceeding noted the confusing and contradictory nature of the Interim Restrictions, and that one of the other OHO Panel members noted the unrealistic nature of the Interim Restrictions. Opening Brief at 16-17. In light of the multiple instances wherein the Interim Restrictions' were confusing, FINRA's continued insistence that Mr. Saliba's confusion "does not withstand scrutiny" offers a further example of the draconian manner in which FINRA has treated Mr. Saliba during the pendency of this matter. One would think that, in light of the multiple times that a disinterested party found the Interim Restrictions to be confusing or unrealistic, FINRA might consider the notion. Regardless of FINRA's refusal to adopt a reasonable position, the confusing nature of the Interim Restrictions should be treated as a mitigating factor for the Commission to consider when assessing the appropriate sanction for Mr. Saliba's violation of the Interim Restrictions.

FINRA asserts that Mr. Saliba never disclosed his principal activities to MAP or asked MAP whether his activities were permitted by the Interim Restrictions. Opposition Brief at 25-26. FINRA's assertion is a mischaracterization and generalization of the record and Mr. Saliba's testimony in this matter. At all times throughout the July 2012 CMA process, including after MAP implemented the Interim Restrictions, Mr. Saliba made every effort to clarify any doubts and/or concerns he had with MAP. *See* Opening Brief at 3. More specifically, Mr. Saliba contacted MAP whenever he was uncertain about how a particular activity could be achieved given the Interim Restrictions. *Id.* at 16. Any areas that Mr. Saliba did not bring to the attention of, or clarify with, MAP throughout the process were areas that Mr. Saliba believed he understood well enough to require no clarification. Although Mr. Saliba obviously mis-stepped, FINRA's assertion that Mr. Saliba did not ask MAP whether his activities were permitted by the Interim Restrictions is simply erroneous and reflects FINRA's obvious hope that the Commission fails to afford Mr. Saliba's Opening Brief adequate attention.

ii. Tabizon's Instructions to Mr. Saliba Were Blessed by a FINRA Examiner

As Mr. Saliba discussed in his Opening Brief, Tabizon cleared the idea of recreating the Outside Business Activity (**"OBA"**) and Private Securities Transaction (**"PST"**) forms to replace the missing forms with a FINRA representative (**"Examiner Leong"**), and Tabizon advised Mr. Saliba of such before Mr. Saliba signed his forms. *Id.* at 9. As NMS Securities' Chief Compliance Officer (**"CCO"**), Tabizon was responsible for the compliance related matters of the Firm. Mr. Saliba relied on Tabizon to be well versed in the areas for which he was responsible. Therefore, when Tabizon informed Mr. Saliba that Tabizon had spoken with Examiner Leong about the missing OBA and PST forms, and that Examiner Leong had advised Tabizon that it was acceptable for him to recreate the forms, Mr. Saliba trusted Tabizon's information. *Id.* at 8-9.

Rather than simply conceding that its staff offered assistance to Tabizon as a courtesy, FINRA argued that "the record does not support [Mr.] Saliba's assertion" that Examiner Leong advised Tabizon that is was acceptable to recreate the OBA and PST forms. *See* Opposition Brief at 34. FINRA's Opposition Brief further stated that Examiner Leong's supervisor "testified that no examiner would *ever* allow backdating of documents, and that the prohibition against falsifying documents by backdating is 'examiner 101.'" *See Id.* at 35. Although Examiner Leong's supervisor noted that "no examiner would *ever* allow backdating of documents," he also testified that he did not expect his examiners to tell him about every conversation they have with associated persons during the course of an on-site cycle exam. RBN 002693 – RBN 002694. Ultimately, Examiner Leong's supervisor was largely non-probative regarding the issue of whether Examiner Leong allowed Tabizon to replace previously-maintained OBA and PST forms.

The testimony that FINRA could have offered, however, was Examiner Leong's. Examiner Leong is no longer employed at FINRA, but maintains securities licenses and is

employed at FINRA member firm Wedbush Securities, Inc. Due to her securities licenses, FINRA could have utilized Rule 8210 to require Examiner Leong's truthful testimony as to whether she offered Tabizon the courtesy of allowing him to replace previously-maintained OBA and PST forms. Due to her licensure, Examiner Leong would have been compelled to abide by FINRA's request, and would likely have been motivated to do so in order to remain in FINRA's good graces while being employed in the securities industry. FINRA likely spoke to Examiner Leong and, upon learning that Tabizon's story about her professional courtesy was true, chose to refrain from calling her as a witness and instead utilizing Examiner Leong's prior supervisor to testify regarding what "no examiner would *ever* allow." FINRA's failure to introduce testimony from Examiner Leong was likely by design, and the Commission should not credit FINRA's position in light of that failure.

Mr. Saliba resubmitted the replacement OBA and PST forms at Tabizon's request, but did so with the understanding that Examiner Leong had authorized the recreation of the forms. Mr. Saliba does not contest the violative nature of recreating the OBA and PST forms. He simply asks that the Commission consider the mitigating factor that Mr. Saliba believed that he was recreating the forms at the request of his CCO (as a result of his CCO being unable to locate the forms), after the CCO received authority from Examiner Leong.

V. CONCLUSION

In spite of all the evidence to the contrary, FINRA's Opposition Brief concludes that, "[t]he record demonstrates [Mr.] Saliba's cavalier and dismissive attitude towards his obligations as a securities industry professional and registered principal." Opposition Brief at 42. Such dismissive rhetoric has served FINRA well thus far, as the OHO Decision unfairly ended Mr. Saliba's career in the securities industry and the NAC Decision "rubber stamped" the OHO Decision. Mr. Saliba

respectfully requests that the Commission afford this matter a de novo review that results in a fair determination. The NAC's affirmation of the OHO Panel's determination that Mr. Saliba violated FINRA Rules 8210 and 2010 in connection with the JM Memos and eighth Younger Memo, as well as Mr. Saliba's computer usage and testimony regarding that usage, was erroneous. The Commission should reverse such findings. With regard to the (1) Interim Restrictions and (2) recreated OBA and PST forms, Mr. Saliba again concedes that he engaged in conduct that violated FINRA Rules and should be fairly sanctioned in connection with such violations. A fair sanction, however, should not permanently bar Mr. Saliba from the securities industry, and the Commission should modify or reverse the NAC Decision by ordering a reasonable lesser sanction against Mr. Saliba. Additionally, Mr. Saliba respectfully renews his request that the Commission allow oral argument in connection with this matter.

Dated: July 2, 2019

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

In accordance with the Commission's Rule of Practice 450(d), I hereby certify that the forgoing Reply Brief complies with the length limitation set forth in Rule 450(c), and that this Reply Brief contains 4,882 words, according to Microsoft Word's word count function.

Mark David Hunter

CERTIFICATE OF SERVICE

I hereby certify that, on July 2, 2019, I caused a true and correct copy of the foregoing document to be served upon the following by overnight mail and email transmission addressed to:

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