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HUNTER TAUBMAN FISCHER & LI LLC

MARK DAVID HUNTER, ESQUIRE
(ADMITTED NY, FL AND DC)

NEW YORK WASHINGTON, D.C. MIAMI

E-MAIL: MHUNTER@HTFLAWYERS.COM

February 6, 2019

3-18990

Via Federal Express, Facsimile, and Email Transmission

Brent J. Fields
The Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, DC 20549-1090
Facsimile: (202) 772-9324

**Re: Department of Enforcement v. Arthur Mansourian, et al.
Disciplinary Proceeding No. 2013037522501**

Dear Mr. Fields:

We are counsel to Arthur Mansourian in connection with the above-referenced matter. Attached for filing is Mr. Mansourian'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
Office of the General Counsel
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, D.C. 20006
Facsimile: (202) 728-8264
Email: Ersilia.Passaro@finra.org



UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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In the Matter of the Application of :
Arthur Mansourian :
For Modification of Action Taken by FINRA :
-----X

Disciplinary Proceeding
No. 2013037522501

3-18990

**APPLICATION OF ARTHUR MANSOURIAN 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

Mark David Hunter, Esquire
Jenny D. Johnson-Sardella, Esquire
Robert C. Harris, Esquire
2 Alhambra Plaza, Suite 650
Coral Gables, Florida 33134
Tel: (305) 629-1180
Fax: (305) 629-8099
Email: mhunter@htflawyers.com
jsardella@htflawyers.com
rharris@htflawyers.com

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"), Arthur Mansourian ("Mr. Mansourian") 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. Mansourian (1) violated FINRA Rule 2010 by participating in obtaining backdated compliance forms that were to be provided to FINRA using his personal email, and (2) violated FINRA Rules 4511 and 2010 by causing a member firm to maintain inaccurate books and records. *See* OHO Decision at 35-36. For these purported violations, the OHO Panel imposed a bar upon Mr. Mansourian from association with any FINRA member firm in any capacity. *Id.* at 41. After Mr. Mansourian 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 22-24. The NAC concluded its review of the matter by affirming Mr. Mansourian's bar. *Id.* at 27-28.

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

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 a sanction is excessive or oppressive, the Commission should modify or reverse the NAC Decision.

Prior to this matter, Mr. Mansourian had no prior disciplinary history with any securities regulator. At the time of the events in question, Mr. Mansourian had been in the industry as a general securities representative ("GSR") for approximately six years, but had only been employed in the securities industry in a licensed capacity for less than three years. He did not possess any principal or supervisory licenses at that time.

Both Mr. Mansourian and Richard Daniel Tabizon ("Mr. Tabizon"), the member firm's Chief Compliance Officer ("CCO"), testified that Mr. Tabizon requested that Mr. Mansourian send an email from Mr. Mansourian's

personal email account requesting backdated compliance forms from several of the firm's GSRs. Such compliance forms were not intended to deceive, but were intended to replace previous forms that were signed and dated approximately two months earlier but somehow misplaced from the firm's files.

Neither the OHO Decision nor the NAC Decision credited Mssrs. Tabizon's and Mansourian's testimonies that Mr. Tabizon instructed Mr. Mansourian to recreate the missing forms, even though both individuals testified in that manner. Mr. Mansourian was consistent in his testimony that he participated in the recreation of the forms at the request of his supervisor, and documentary evidence supported such testimony. Moreover, the Department of Enforcement in this matter did not call as a witness the FINRA examiner who purportedly provided Mr. Tabizon with the approval to recreate the missing compliance forms, but instead relied upon the testimony of a supervisor who testified that backdating compliance forms "is never acceptable to FINRA." The NAC Decision further found that Mr. Mansourian's conduct in relation to this matter was "intentional" and "intended to conceal," while ignoring Mr. Mansourian's belief that such conduct was at the direction of his CCO. Ultimately, the NAC's acceptance of the OHO's Decision's credibility findings was erroneous.

While Mr. Mansourian does not contest that participating in the recreation of the forms and sending the forms to several of the firm's GSRs from his personal email address violates FINRA rules, Mr. Mansourian's lack of disciplinary history and relative inexperience in the securities industry at the time, coupled with the undisputed fact that his participation was at the request of his CCO, render his sanction of a bar from association with any FINRA member firm excessive or oppressive.¹ A review of the totality of the circumstances in this matter will clearly establish that a reversal or modification of Mr. Mansourian's sanction is appropriate.

IV. Conclusion

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

¹ Although the page limitation of this initial Application limits Mr. Mansourian's argument at this stage, Mr. Mansourian 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 credibility findings regarding Mr. Mansourian.

CERTIFICATE OF SERVICE

I hereby certify that, on February 6, 2018, I caused a true and correct copy of the Application of Arthur Mansourian 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
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, D.C. 20549-1090
Facsimile: (202) 772-9324
Email: APFilings@sec.gov

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