

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

In the Matter of the Application of
Cantone Research, Inc., Anthony Cantone, and Christine Cantone,
For Review of Action Taken by
FINRA
File No. 3-18999

**FINRA'S OPPOSITION TO APPLICANTS' THIRD MOTION TO SUBMIT
ADDITIONAL EVIDENCE**

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August 17, 2022

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On August 15 2022, applicants Cantone Research, Inc. (“CRI”), Anthony Cantone, and Christine Cantone filed a third motion seeking to add to the record financial statements reflecting recent payments of funds to two private placements that are involved in this pending appeal. As with their previous motion filed on April 16, 2021, applicants have not established that this evidence is material to the findings or sanctions on appeal.¹ Thus, the Commission should deny applicants’ motion.

Rule 452 of the Commission’s Rules of Practice states, among other things, that the “Commission may accept or hear additional evidence . . . as appropriate.” 17 C.F.R. § 201.452. A motion under Rule 452 must “show with particularity that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence previously.” *Id.* The moving party carries the burden to meet each of the requirements under Rule 452. *See e.g.*,

¹ FINRA’s arguments in opposition to applicants’ initial motion to submit additional evidence were fully briefed in FINRA’s September 15, 2020 opposition brief (“Initial Opposition”) and apply with equal force here.

Robert D. Tucker, Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at *58 (Nov. 9, 2012) (“Tucker failed to satisfy either of these requirements and we therefore decline to admit them.”); *John Edward Mullins*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464, at *56 n.60 (Feb. 10, 2012).

As with their previous motion, applicants have not demonstrated that the proposed additional evidence is material. Rule 452 requires a distinctive demonstration that the additional evidence applicants seek to admit will “materially affect the outcome of the proceedings.”

Richard A. Holman, 40 S.E.C. 870,874 (1961). As discussed in FINRA’s Initial Opposition, applicants have not established with particularity that any of the information contained in these financial statements is material to the findings or sanctions on appeal. The NAC’s decision did not turn on whether the deals were or would be profitable years in the future, or whether any customers suffered losses. Future profitability is unrelated to the question of whether applicants made fraudulent and negligent misrepresentations or omissions. Nor do these payments provide Cantone or CRI with any mitigation as to sanctions. *See, e.g., Howard Braff*, Exchange Act Release No. 66467, 2012 SEC LEXIS 620, at *26 & n.25 (Feb. 24, 2012).

Therefore, the Commission should deny applicants’ third motion and decline to admit the evidence into the record for this matter.

Respectfully submitted,

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August 17, 2022

CERTIFICATE OF SERVICE

I, Colleen Durbin, certify that on this 17th day of August 2022, I caused a copy of FINRA's Opposition to Applicants' Third Motion to Submit Additional Evidence, in the matter of the Application for Cantone Research, Inc., Anthony Cantone, and Christine Cantone, Administrative Proceeding No. 3-18999, through the SEC's eFAP system and served by electronic mail on:

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CERTIFICATE OF COMPLIANCE

I, Colleen Durbin, certify that FINRA's Opposition to Applicants' Third Motion to Submit Additional Evidence complies with SEC Rule of Practice 151(e) because it omits or redacts any sensitive personal information.

Respectfully submitted,

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