UNITED STATES OF AMERICA

before the

SECURITIES AND EXCHANGE COMMISSION

March 19, 2020

SECURITIES EXCHANGE ACT OF 1934

Admin. Proc. File No. 3-19007, 3-19012

In the Matter of Applications of

EDWARD BEYN

and

CRAIG S. TADDONIO

For Review of Disciplinary Action Taken by

FINRA

SURREPLY BRIEF OF PRO SE LITIGANT:

EDWARD BEYN

I, EDWARD BEYN, being duly sworn, submit this Surreply Brief pursuant to the Rules of Practice, 17 C.F.R. § 201.450(a):

1. I am a pro se litigant and I am filing this Surreply Brief in response to the February 6, 2020 Order issued by the United States Securities and Exchange Commission ("SEC")(the "Commission"), and the subsequent abuse of the Rule of Law, which is the basis that should have been used to Vacate the Decision prior to even having to file this Appeal.

VIOLATION OF DUE PROCESS

2. In my prior briefs submitted herewith and incorporated by reference, I have made multiple arguments that no case exists in the history of FINRA Enforcement actions as well as SEC Enforcement Actions where a Registered Representative was denied access to view 5,000,000 documents in the possession of the Department of Enforcement ("DOE") before, during and throughout said hearings and subsequent disciplinary proceedings.

3. Due Process is the quintessential focus of all litigation, or any regulatory proceeding. As previously stated, my Due Process rights have been violated by FINRA. In any other court of competent jurisdiction anywhere in the United States, such violations would give leave to dismiss all claims against me. As I have previously discussed, in *Brady V. Maryland*, a case decided by the *United States Supreme Court in 1963. 373 US 83* The court in *Brady* held that the withholding of information in the possession of the prosecution resulted in the violation of the individual's due process. Justice Douglas said it best when he stated in that case that ""We now hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment... Society wins not only when the guilty are convicted, but when criminal trials are fair." *See pages 86 and 87 of that decision.*

3. It is important for the Commission to understand that I was denied access to 5,000,000 pages of documentation that had been gathered by the DOE in pursuit of its Complaint against me. Further the Hearing to give proper weight to the Affidavits of the clients, who knowingly signed sworn affidavits regarding the trading in their accounts and then made conflicting statements at the DOE hearing. As has been the precedent in modern law, when were these individuals lying? When they executed sworn affidavits or on the day of the DOE hearing? It should also be noted that FINRA DOE had the opportunity to review said documentation and utilize any documentation in the discovery process to ask questions of the

individuals as 'witnesses' at the hearing. Since I was not given the access to said documentation and my Due Process Rights have been violated by the lack of access to said discovery, I was not afforded the ability to question these individuals at the time of the hearing. This further violates my Due Process Rights and creates a situation by which the hearing officer failed to exercise the proper adherence to FINRA Rules as well as the Rules of Procedure afforded me by my Constitutional Right to Due Process. FINRA's own revised Rule 8210 covers the information that is required by a request of FINRA as well as the information required to be disclosed to those being accused of a violation of FINRA rules and procedures. Such information was never disclosed in these proceedings and I was not afforded the ability to have that information in order to appropriately respond at the DOE hearing and be able to raise any issues with the actual information asked for by FINRA, the information received by FINRA and/or any other information in the millions of pages of discovery documents.

COMPLIANCE

4. As the Commission and the NAC were made very well aware throughout the DOE action and the briefs in this proceeding, the firm that is the subject of this proceeding, Craig Scott Capital ("CSC") had its own Chief Compliance Officer ("CCO") as well as a compliance staff. Upon information and belief, CSC's CCO had over thirty years of compliance experience at large brokerage firms and institutional investment 'wire' houses, such as Goldman Sachs, Merrill Lynch et al, and Morgan Stanley among others. All compliance functions were carried out under the direction of the CCO and the principal of the firm, Craig Taddonio ("Taddonio") the owner of the firm.

5. At no time during my tenure at the firm, did I, Edward Beyn, hold any position other than that of a Registered Representative, who operated my own book of business under the direction of the CCO and Taddonio.

6. All trading done in any account that was part of my business while at CSC was done so utilizing the paperwork, compliance initiatives and direction of the CCO and Taddonio. As a Registered

Representative, I could not make any trades for any client without the CCO and Taddonio knowing, overseeing and authorizing such business. At no time during my tenure at CSC did the CCO or Taddonio tell me the trades in which I was making were prohibited or not in line with CSC's Compliance policies. At no time did I receive anything in writing from CSC or Taddonio regarding my trading on behalf of clients and/or any additional suitability or mandated documents.

7. Any documents, such as the affidavits that CSC's CCO and Taddonio told me had to be signed in order to continue trading for the accounts of those clients; were sent to said clients to be executed. Said clients were sent these affidavits by the CCO, Compliance Department or Taddonio and not by me. At no time did I handle any account paperwork regarding compliance. When said paperwork was returned to the firm, the paperwork was sent directly to the Compliance Department, CCO or Taddonio. I had no knowledge if and when clients had sent them back or not, unless I was specifically told by the CCO, Compliance Department or Taddonio that the Active Trading Letters - Sworn Affidavits in regard to same had not been returned, therefore the account was restricted. From time to time, during my time at CSC, on multiple occasions, accounts became restricted due to Active Trading Letters – Sworn Affidavits not being returned.

8. At no time whatsoever did I have the authority to issue any documentation or receive any documentation regarding Active Trading Letters – Sworn Affidavits or other such compliance-based trading authorization. As I was not and am not a compliance officer, shareholder, director, officer, principal or manager of the firm CSC, I therefore was not involved in any compliance related meetings or decisions.

9. At the DOE proceeding and subsequent other motion appearances, the hearing officer and the DOE panel totally disregarded these facts which is a further violation of known precedent. *In the Matter of the Application of Thaddeus J. North for Review of Disciplinary Action Taken by FINRA, Release 34-84500 (Oct. 29, 2018)*, the Commission issued an opinion that provided guidance on liability standards relating to the Chief Compliance Officers of brokerage firms. More specifically the Commission in the opinion goes out of its way to state that CEOs of brokerage firms (In this case Taddonio) have a duty to "follow-up and

review" with respect to the fulfillment of a CCO's responsibilities and to advance the position that brokerage firms should be held responsible by regulatory failures by employees and other firm representatives in the absence of "effective staffing, sufficient resources and a system of follow-up and review". What is quite disturbing in the CSC case is that the CCO was not charged with any FINRA violations or securities law violations, when the opinion in the Thaddeus J. North case definitively applies liability of any actions of the Registered Representatives under the CCO's direction as the CCO has liability based on the fact that compliance officers play a "vital role" in the regulatory framework. The Commission explicitly states in the opinion that a CCO's roles are 1) "The protection of investors and public interests" and 2) "principles of fairness and equity". Certainly, both edicts listed above were not adhered to by the CCO of CSC and by extension Taddonio.

10. In the current case, the CCO of CSC knew or should have known as all documentation and trading was subject to compliance and CCO approval, if there was any trading that was not suitable. Further, the CCO knew or should have known, as he had at other times, that if such trading was not suitable for the specific clients that Hearing Officer Fitzgerald identifies in the DOE proceeding, then the CCO and Taddonio as a principal are liable, since the compliance efforts of the firm are under their explicit direction. Yet, to date, the CCO of CSC is absent from these proceedings and has not been a named party at all. It would seem suspect and counterintuitive on the part of FINRA DOE not to charge the CCO of CSC regarding the violations. Instead, FINRA has brought enforcement proceedings against me for actions that are clearly those of the CCO and Taddonio respectively. Additionally, since each account holder that is mentioned in the DOE proceeding, documents and briefs herein have Active Trading Letters – Sworn Affidavits each with a notarized signature by said client, which was asked for by the CCO and Taddonio otherwise the accounts could not be traded, these witnesses perjured themselves either on the record in the DOE proceeding or in their Active Trading Letters – Sworn Affidavits. This completely taints the witnesses' creditability in these proceedings and therefore their testimony at the DOE proceeding should be stricken. This is also true since I was not afforded the ability to utilize the discovery items as I had no access to them

based upon FINRA's inability to get me the 5,000,000 document discovery in order to be able to question the witnesses in regard to the Active Trading Letters – Sworn Affidavits they executed to the CCO of CSC.

11. The CCO of CSC went through multiple exams with FINRA throughout my tenure at CSC, which at no time ended in an Enforcement Proceedings from the DOE of FINRA. If such violations existed as DOE stated that they did in the hearing and the subsequent briefing under this action, then how is it possible that not one of the exams conducted in the time prior resulted in an enforcement proceeding, suspension, fine or other such regulatory action by FINRA? Each and every time FINRA reviewed CSC the CCO was not sanctioned nor was I as well as the clients in question accounts were reviewed and at no time did the trading in their accounts produce a suspension of trading or other such compliance response from the CCO or FINRA. If the trading and/or 'churning' was occurring as FINRA DOE has suggested in these proceedings and subsequent briefing, then how come it did not come up in any cycle exam nor did it result in an enforcement action out of cycle exam. Does FINRA want the Commission to believe that they missed said trading or that they were blind to such action, if that action was happening at all? FINRA is not able to arbitrarily decide when to state infraction occurs or has occurred, most especially retroactively.

12. According to FINRA's own examination rules firms that have a regulatory history of violating rules or have multiple registered representatives with some regulatory history, will have potentially have more examinations and have more extensive exams when they occur. It should be noted for the Commission that the amount of cycle examinations for CSC during my time there as a registered rep, were the typical number utilized for most firms of that size and client base. There were no extraordinary exams or additional regulatory examinations, which would have been consistent with the regulatory depiction that FINRA makes my business and the business of CSC out to be. If the business was as FINRA depicts in the DOE's hearing and subsequent briefing by FINRA, then why weren't there more exams about such behavior? Again, this is counter to FINRA's own edict and rules which shows that at the time of the normal cycle exams, as previously briefed herein, FINRA was not concerned about the practices of CSC and the accounts I traded.

13. Moreover as has been briefed in these proceedings, FINRA DOE failed to disclose the FINRA Exit Letters from the exams of CSC. Hearing Officer Fitzgerald specifically and willfully left those pieces of discovery out of the hearing process in an attempt to not show the failure on FINRA's part to either enforce bad actions or FINRA's flagrant attempt to retroactively make an enforcement determination after someone lost money who willfully and knowingly signed off on the risk they were taking. Taddonio as a principal and shareholder of CSC attempted at the hearing(s) to submit into evidence the Exit Letters of the FINRA exams and was told they were not **'relevant'**. Such exams and Exit Letters specifically state that FINRA reviewed the specific client accounts in question, the very same clients who signed Active Trading Letters - Sworn Affidavits, regarding how their accounts were being handled. The letters state that FINRA reviewed such items as "Customer Specific Suitability", "Quantitative Suitability", and "Firm Supervisory Systems & Controls", which are all areas that were brought up directly during the DOE proceeding and have been the topic of the briefing.

14. As a result of the facts herein, as well as the fact that I was not a principal, not an officer, director, owner, shareholder, compliance officer and only a registered representative that could only trade those accounts I was allowed to trade based on what the compliance department, the CCO and Taddonio more specifically, allowed me to trade, any penalties in regard to me personally should be less in scope than penalties against CSC, the CCO, Taddonio or other officers, directors, shareholders and/or compliance individuals since I had no ability to trade accounts without the CCO, the compliance department, the officers, directors and principals, namely Taddonio's authorization.

CONSOLIDATION

15. On or about December 5, 2016 Respondent filed a Motion to sever the claims against Respondent from Respondent Taddonio. FINRA denied the Motion based on the grounds that the cases involved "**common questions of law and fact, substantial overlap of evidence and that consolidation would conserve resources and aid adjudicatory process. I also concluded that Beyn would not suffer unfair prejudice**

from consolidation". Under *FINRA Rule 9214* a party may seek to sever a consolidated disciplinary proceeding if such argument can be made that either of the following is true or present in the proceeding at the time –

> *1. whether the same or similar evidence reasonably would be expected to be offered at each of The possible hearings;*
>
> *2. whether the severance would conserve the time and resources of the Parties; and*
>
> *3. whether any unfair prejudice would be suffered by one or more Parties if the severance is not ordered.*

In the above FINRA Rule, Respondent Beyn's rights have been unequivocally violated and his right to a fair hearing taken away from him by Hearing Officer Fitzgerald's decision to consolidate the hearings of both Respondent Beyn and Respondent Taddonio. If not for the conduct of Respondent Taddonio, Respondent Beyn's possible sanctions would have been much less or any possible violations against Respondent Beyn would have been dismissed in their entirety.

16. First, as previously argued herein, Respondent Beyn was not a principal, officer, director, owner, holder of a Series 24 license or a compliance officer of CSC. Respondent Beyn was not a member of the compliance team at CSC and therefore had no ability to say which accounts could be traded, how they could be traded or what business could be conducted if at all at CSC. Respondent Beyn was always a Registered Representative, nothing more. Respondent Beyn was like every other broker who was working at CSC. At the time of Respondent Beyn's tenure at CSC there were approximately four (4) individuals who held Series 24 licenses, each of whom was either an officer, director, compliance officer, principal or owner of the firm, most specifically the CCO and Respondent Taddonio. Respondent Beyn was not one of these individuals at all at any time. Furthermore, at the time of Respondent Beyn's tenure at CSC, there were anywhere from twenty-five (25) to forty (40) licensed Registered Representatives such as Respondent Beyn. Respondent Beyn was not even the largest producer at CSC during his time there. These are fact that Hearing Officer Fitzgerald denied as evidence in the proceedings against Respondent Beyn and have been briefed by Respondent Beyn and Respondent Taddonio. Since, Respondent Beyn was not afforded the ability to

review or have any access to the 5,000,000 documents utilized as evidentiary discovery in these proceedings, Section # 1 of FINRA 9214 above is simply not true in this case. There was no way for Hearing Officer Fitzgerald to know what evidence would be brought in by Respondent Beyn as Respondent Beyn was not entitled to review the 5,000,000 documents that classified as discovery. Therefore, based on this violation of Rule 9214, in and of itself, the disciplinary proceeding of Respondent Beyn should have been severed from the disciplinary proceeding of Respondent Taddonio.

17. Second, as previously argued herein, Respondent Beyn was not a principal, officer, director, owner, holder of a Series 24 license or a compliance officer of CSC. Respondent Beyn was not a member of the compliance team at CSC and therefore had little to no knowledge of accounts and the inner workings of CSC. The disciplinary proceedings against Respondent Beyn and Respondent Taddonio are completely different, as Respondent Taddonio was an officer, director, owner, Series 24 license holder and a member of the compliance team of CSC. Respondent Taddonio in his brief of July 9, 2019 in these proceedings, distinctly explains how he formed CSC and how he is responsible for its naming and its setup. Respondent Taddonio explains in his July 9, 2019 brief in these proceedings, his full knowledge of all compliance decisions as well as the hiring and firing of individuals, most especially that of the Chief Compliance Officer of CSC. Respondent Taddonio is the person familiar with these issues, the owner of CSC as well as the person directly responsible for setting compliance policy for CSC. Therefore, a disciplinary proceeding for Respondent Taddonio's actions consolidated with a disciplinary proceeding for any actions of the part of Respondent Beyn, would not assist the Parties when it comes to time and resources as depicted in Section #2 of FINRA Rule 9214 as outlined above. Clearly, the amount of time that would need to be spent on the disciplinary proceeding in regard to Respondent Taddonio would far outweigh the amount of time needed to be spent on Respondent Beyn's disciplinary proceeding since Respondent Taddonio was an officer, director, principal, member of the compliance team and a holder of a Series 24 license. The consolidation of these proceedings does not save time and resources since the roles of both respondents in these proceedings are completely different in the hierarchy and management of CSC. Therefore, based on this

violation of Rule 9214, in and of itself, the disciplinary proceeding of Respondent Beyn should have been severed from the disciplinary proceeding of Respondent Taddonio.

18. Third, as previously argued herein, Respondent Beyn was not a principal, officer, director, owner, holder of a Series 24 license or a compliance officer of CSC. Respondent Beyn was not a member of the compliance team at CSC and therefore had little to no knowledge of accounts and the inner workings of CSC. The disciplinary proceedings against Respondent Beyn and Respondent Taddonio are completely different, as Respondent Taddonio was an officer, director, owner, Series 24 license holder and a member of the compliance team of CSC. Due to this, any consolidation of the disciplinary proceedings of Respondent Taddonio with that of the disciplinary proceedings of Respondent Beyn, brought about an unfair prejudice against Respondent Beyn due to the actions of Respondent Taddonio. Not only was Respondent Beyn not an officer, director, principal, member of the compliance team and a holder of a Series 24 license, but he had no knowledge of any of the inner workings or management of CSC. Such evidence against Respondent Taddonio is overwhelming in nature that Respondent Taddonio willfully and knowingly knew what CSC did daily for its over twenty (20) Registered Representatives. Respondent Beyn was not privy to nor did he have any idea what other registered representatives did at CSC let alone CSC's officers, directors, principals, members of the compliance team and holders of Series 24 licenses at CSC. As Respondent Beyn did not have any of these positions and was not a licensed supervisory individual, any use of evidence regarding someone who was and the consolidation of evidence (that Respondent Beyn never got a chance to review or counter at the hearing(s)), testimony and and/or procedural stance of FINRA, in regard to Respondent Taddonio unfairly prejudices Respondent Beyn. Quite simply the honorable Commission must conclude that there was no way for Respondent Beyn to ever receive a fair and just hearing, since his actions would be consolidated and "lumped in" with those of Respondent Taddonio. The actions of Respondent Taddonio have tainted Respondent Beyn and there is absolutely no way for Respondent Beyn to ever receive a fair disciplinary proceeding since actions are being used against him that he was not a part of and was not privy to. Therefore, based on this violation of

Rule 9214, in and of itself, the disciplinary proceeding of Respondent Beyn should have been severed from the disciplinary proceeding of Respondent Taddonio.

19. It should also be noted to the honorable Commission, that if Respondent Beyn's disciplinary proceeding would have been heard separately and not consolidated with Respondent Taddonio's disciplinary proceeding, for all of the reasons argued herein and above, Respondent Beyn's sanctions for what may be specific actions of Respondent Beyn would be completely different than any sanctions levied against Respondent Taddonio. Such sanctions for any claim or misconduct of Respondent Beyn should have been in the form of a monetary fine and/or a suspension for a period; not a bar of any kind. As Respondent Beyn did not hold a Series 24 license that permits the supervision of others and as Respondent Beyn was not an officer, principal, compliance officer, owner, operator, director or management of any kind he should not be sanctioned together with Respondent Taddonio who held all of those roles. It is prejudicial in nature for FINRA and the Commission to recommend such sanctions for someone who has never been in those positions, especially at the time of his tenure at CSC.

For the reasons herein and above, I respectfully ask the SEC to dismiss the case against me or in the very least remand the case back to FINRA to rehear the case, this time with the proper discovery, my proceeding severed from that of any other party, specifically Respondent Taddonio and all legal rights most especially due process being followed.

Yours, Etc.

3/19/20

BY: EDWARD BEYN

[redacted] Rd
Dixhills, NY [redacted]