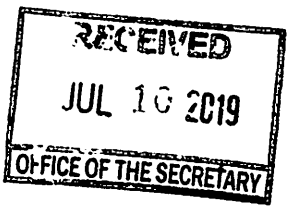
Craig S. Taddonio
[redacted]
Babylon, NY [redacted]
[redacted]@aol.com
[redacted]



July 9, 2019

The Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, D.C. 20549-1090

Re: Complaint No. 2015044823501: Craig S. Taddonio

Ms Countryman,

I, Craig Taddonio, hereby submit this Brief in Support of the Application for Review in the above captioned matter.

Normally, I believe the proper procedure is to request leave to file a brief in excess of length limitation, however I just received your July 3rd letter via certified mail today, July 9th, which has yesterday July 8th as the due date for my brief. I assumed it would be better to submit the brief with the request as I imagine I wouldn't receive a response on the motion for a few days. I assumed this would keep better in line with the briefing schedule, if it was acceptable.

I would like to respectfully request permission for my brief to be accepted above the 14,000 word limit stated in rule 450(c). According to Microsoft Word Count my attached brief is 16,595 words, exclusive of the pages containing the table of contents, table of authorities, and any addendum that consists solely of copies of applicable cases, pertinent legislative provisions, or rules and exhibits.

If you recall, my original submission was just above 23,500 words, as I had been referencing a July 2003 version of rule 450(c) on the SEC website which stated that "briefs shall not exceed 50 pages...printed in 10- or 12-point typeface."

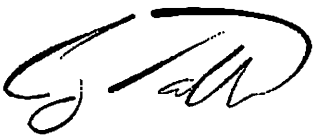
I have worked diligently to reduce the size of the brief and have cut it by 1/3rd. Based on the size of the record in this proceeding, the fact there are multiple allegations I was charged with as a Pro Se respondent and the fact that I have a large number of basis for my appeal, I respectfully request that the brief be accepted at the current length.

On June 25th FINRA requested that the Commission allow it to file a brief of 16,000 words in response to my 23,500 word brief prior to receiving the Commissions letter instructing me to shorten my brief. I obviously would not oppose if FINRA requested approval to file a longer brief as well.

Please contact me at 631-767-0122 if you have any questions.

Thank you!

Sincerely,



Craig S. Taddonio

CONTENTS

CASE REFERENCES

The Sanctions levied by the NAC are beyond the precedents that exist for the allegations lodged against me. I ask the SEC to please review the following FINRA Disciplinary Proceedings which exhibit wrongdoing beyond the contentions against me, but which resulted in sanctions far less than the sanctions levied by the NAC in this case. It's beyond logical to comprehend how the NAC could have granted a lifetime bar in this case, given the sanctions set forth in:

FINRA Discip. Proc. No. 2010025708501 ***Dep't of Enf't v. Newport Coast Securities, Inc and Kristopher C. Kessler***- Kessler, COO of Newport Coast, also served as a compliance officer & compliance manager, was designated as the firm's AML Officer and had management responsibilities including compliance duties, serving on the hiring committee, and directly supervising various representatives. For failing in his responsibilities as an "over-seer" of compliance and the registered representatives and for failing to supervise and failing to act when "red flags were present". Kesler violated NASD Rules 3010(a), 3010(b), 3040(c) and FINRA Rule 2010 and was suspended for 10 days in a Principal capacity and fined $5,000 - Newport Coast had significant disciplinary history with multiple fines and sanctions prior. Newport Coast CEO Richard Ernesto & President Kathleen McPherson were not sanctioned.

FINRA Discip. Proc. No. 2012030564701 ***Dep't of Enf't v. Newport Coast Securities, Inc and Roman Tyler Luckey***- Directly supervised 5 brokers who excessively traded and churned 24 customer accounts with cost to equity ratios over 100%, turnover rates over 100, extraordinary amounts of in & out trading, accounts highly margined and often in one security, large number of trades with commission/markup above 3-4%, deceptive mix of markups above 3% and lower cost trades executed as agency, unsuitable inverse and/or leveraged ETF's & ETN's remained in accounts for multiple trading sessions, solicited trades inaccurately characterized as unsolicited, and all accounts exhibited large losses - Respondent Luckey failed to address red flags and take any meaningful measure to address the misconduct or to ensure the Firm's representatives acted in a manner compliant with applicable laws, regulations and rules. For violating NASD Rules 3010 and FINRA Rule 2010 Luckey was suspended from associating with any FINRA member firm in a principal capacity for 14 months and paid a $15,000 fine.

FINRA Discip. Proc. No. 2011027666902 ***Dep't of Enf't v. Merrimac Corporate Securities, Inc and Robert G Nash***- Panel found Nash, the firm CCO's misconduct was a serious violation of FINRA Rules 8210 & 2010 by providing false documents to FINRA (knowingly providing forged documents to FINRA, falsely reflecting various stock transactions had been reviewed by Merrimac's supervisory and compliance departments when in fact no supervisory review had occurred). Nash was the CCO responsible for reviewing customer accounts, commissions and mark-ups, and office examinations - Merrimac had significant disciplinary history with previous failures to supervise. For violating FINRA Rules 8210 and 2010 by providing false documents to FINRA, Nash was fined $25,000 and suspended 1 year in all principal capacities. For violating

NASD Rules 3010 and 2110 and FINRA Rule 2010 by failing to maintain a reasonable supervisory system and procedures, Nash was fined $25,000 and suspended 1 year in all principal capacities. Merrimac CEO Stephen Pizzuti was not sanctioned.

FINRA Discip. Proc. No. 2007007400504 ***Dep't of Enf't v. Westpark Capital, William A Morgan and Jason S Stern*** - the firm's CCO, William A. Morgan and COO, Jason Stern, failed to supervise 6 representatives who committed sales practice violations in at least 19 customer accounts including unauthorized trades, unsuitable excessive trading and churning in multiple customer accounts (annualized cost to equity ratios ranged from 41% to 488% and annualized turnover rates ranged from 8.83 to 108.14), qualitatively unsuitable trading in multiple accounts using extensive margin and concentrating accounts in single securities and reporting "solicited trades" as "unsolicited", inadequate heightened supervision. Morgan and Stern violated Conduct Rules 3010 and 2110 for failing to establish an adequate supervisory system and procedures and by failing to take appropriate action reasonably designed to detect and prevent the violations. Morgan was responsible for maintaining and updating the firms WSP's, supervising the branch managers, background investigations, participating in hiring decisions, heightened supervision, reviewing customer transactions on a daily & periodic basis, and taking reasonable steps to ensure the transactions were authorized and that the rep's recommendations were suitable. Stern shared some of Morgan's supervisory responsibilities and reviewed CRD histories on all new hires, participated in hiring decisions and supervised reps subject to heightened supervision. Westpark Capital had a history of fines and regulatory suspensions. Morgan was suspended in any principal capacity for 4 months and fined $5,000 and Stern was suspended in any principal capacity for 3 months and fined $20,000. Westpark CEO Richard Rappaport was not sanctioned.

FINRA Discip. Proc. No 2013034966701 ***Dep't of Enf't v. First Financial Equity Corp and Melissa A. Strouse***- Strouse, the CCO, was responsible for ensuring the firm's compliance and supervision systems operated effectively. Strouse also had primary supervisory responsibility for the firm's main office in Scottsdale, AZ, where a significant number of the Firm's supervisory failures occurred. By failing to have adequate WSP's relating to reasonable basis suitability under Rule 2111 and heightened supervision, and by not having any WSP's pertaining to supervision, approval and sale of ETF's, Strouse Violated NASD Rule 3010(b) and Rule 2010. Strouse also failed to enforce provisions of Firm's WSP's at Scottsdale OSJ in violation of Rule 3010(b) and Rule 2010 including procedures pertaining to discretionary accounts, excessive trading/churning reviews..." For violating NASD Rule 3010(b) and FINRA Rule 2010 Strouse received a 10 Calendar Day Suspension in any Principal Capacity and $10,000 fine – First Financial Equity Corp CEO Jeffrey Graves was not sanctioned. Pg 9 of 20 of the Dec 30, 2016 Order Accepting Offer of Settlement states, "the Firm's WSP's required the "Designated Supervisor" to review, on at least a monthly basis, the purchase and sales blotter, customer accounts, subscription documents and commission reports, for churning and excessive trading, however, the "Designated Supervisor" did not conduct the churning/excessive trading review detailed in the Complaint. Pg 9 of 14 of the Complaint states "Strouse was the designated supervisor charged with performing the tasks identified in complaint Paragraphs 35 and 36." This is identical to CSC's WSP and FINRA found the CCO to be the Designated Supervisor.

A sanction of anything more than the sanctions set forth in these cases is disproportionate to the claims asserted in this case.

INTRODUCTION

With this brief I intend to prove multiple basis for why the findings by the NAC should be dismissed, reduced or at minimum the case be remanded back to FINRA for a new hearing.

One of the reasons I opened Craig Scott Capital was that I had never received a single customer complaint and all I wanted to do from the day I started in this business was join a firm, build a good business and stay at one company for my entire career. Every few years in the beginning of my career, however, I wound up having to transfer my business to another firm due to a financial issue at the company I was at or a broker from another state I had no connection to creating an issue for the firm. Even through the 2008 market crash, having the largest book of business at the firm, giving me the most opportunity for clients who could potentially lose money, I never received a single customer compliant.

I named Craig Scott Capital after myself, as I take pride in my business and wanted to build a company people could feel there was a real person behind, with integrity and responsibility. We hired Richard Crockett as CCO who had 35 years' experience and had worked at some of the most reputable firms in the world, like Goldman, Morgan & Merrill. At the time he was very aware that myself and Porges had almost no compliance experience, other than having very clean licenses as brokers. After the first few months, we did not see Crockett sending out activity letters, running trade corrections or doing some of the things we saw other CCO's/Supervisors do at prior firms we worked at. We didn't find it abnormal at first because we were a new firm. We assumed it might take a few months or even a year for a client to build a track record as an active trader, so gave Crockett the benefit of the doubt. After 6 months, we had our first FINRA regulatory cycle exam which was spotless. We had 2 exceptions from the cycle exam, both financial. No issues with client accounts, trading or suitability. The same

accounts continuously named in this hearing, Heikkila, Pixley, Bankston, Baum, Kennedy, were the same accounts FINRA reviewed exhaustively in each of CSC's Cycle-Exams. These were the most active clients at the firm and were clients of brokers at CSC from the day the firm opened. They had transferred their accounts from Brookstone to CSC and some of these clients like Baum, had been clients going back to 2009 at Pointe Capital, 3 years before CSC even opened. I intend to

ARGUMENT

I. Mitigating Factors

Shortly after the firm's first cycle exam, it had been 1 year that CSC had been in operation, and we decided to terminate the firm's CCO, Crockett, even though the firm had just received a spotless cycle-exam. Crockett testified it was the best cycle-exam he'd seen in his career and stated he was furious, because he felt the firm had just received a fantastic grade from FINRA and didn't understand why he was being terminated. The fact that we terminated Crockett, the firm's CCO, being that we felt he was not doing enough compliance-wise, in terms of reviewing transactions for suitability, sending out activity letters, contacting clients, and making trade corrections to reduce commissions or adjust transactions based on suitability, even though we had just received a spotless FINRA cycle-exam, should have been a mitigating factor in the Hearing Panel & NAC decisions. This showed that compliance was important to the firm, and that the firm's goal was not simply to make as much money as possible, as DOE attempted to make the Panel & NAC believe. DOE made statements throughout the hearing, and in their Post Hearing Brief such as *"Respondents knew of but took no meaningful steps to curtail the active trading because to do so would have resulted in lower commissions and profits for them and the firm's sales force."* This could not have been further from the truth. Crockett had a commission guideline he set for the firm of a 5% max commission which he made sure brokers adhered to when reviewing

the firm's trades daily. Even after the firm's first cycle exam came back spotless, we fired our CCO, and looked to hire a new CCO that would be stricter when it came to compliance. Gentile testified that we stressed this to him when he was hired, which was why he immediately took a multitude of steps to improve compliance at the firm. One of the first steps was adjusting the firms commission policy from a max commission of 5% down to a max commission of 3.2% TOTAL between the buy AND sell of any equity position. Gentile testified that for any active client whose account hit COR Clearing's Active Account Exception Report, he would send out activity letters (CX-160) and affidavits (CX-149) and if those activity letters were not signed by the client, he would restrict the account from running further trades (Hr'ng Tr. 3282:7-3286:25) (3294:5-17) (2931:10-2932:18). Gentile testified that he did extensive research of the firm's active accounts, reviewing exception reports along with clients account docs, performance, investment strategies and commissions in the account (Hr'ng Tr 2935:8 - 2943:22). CX-106 gives a full description of the review Gentile would do on active accounts at CSC which he testified to (Hr'ng Tr. 2957:13-2961:25). Additionally, Gentile testified that he reached out to clients, asked Porges to reach out to clients, and that the following Designated Supervisor of the firm, Bill Karvecky, reached out to clients for multiple reasons including if he saw a client run numerous trades in a day, he might reach out to the client to check on the activity (Hr'ng Tr. 3107:25-3111:4). Karvecky took over many responsibilities that Gentile did on a daily basis including, reviewing & signing off new account forms; reviewing daily trades, emails, incoming/outgoing correspondence & active account worksheets; restricting accounts; lowering commissions on trades to enforce the firms max commission guideline Gentile set at 3.2% on all accounts and 1%, 0.5% or 0.25% on active accounts. If all the firm cared about was making money, why would we fire the firm's original CCO (Crockett), who allowed brokers to charge a max commission of 5% and did not

take many restrictive compliance measures, directly after a spotless FINRA Cycle-Exam, only to hire a new CCO (Gentile), who immediately lowered the max commission at the firm from 5% down to 3.2% and took multiple additional restrictive measures? (Hr'ng Tr. 3951:2-3954:2). This instantly lowered the firm's revenues by 36%. Obviously, compliance was more important to the firm than just making money.

In addition, the multiple steps Karvecky took, who we hired as Branch supervisor, were never factored into the hearing. DOE strategically set the relevant dates of the Failure to Supervise complaint to end in Oct 2014. What makes this suspect is that the relevant dates for DOE's complaint against Beyn for excessive trading includes activity through May 2015. If Beyn was supposedly excessively trading accounts until May 2015, how could the relevant supervision of those same accounts end in Oct 2014? Oct 2014 happens to be just a few months prior to us getting rid of the few brokers we had issue with and hiring Karvecky. Karvecky began implementing many additional restrictions on a more active, everyday basis which is a testament to the fact that over the first few years of the firm's existence, we learned from our mistakes and attempted to build compliance over time. In the following year at CSC, the firm was able to continue improving its compliance and if it was in business today, the issues the firm had in its first few years would not still exist. DOE did not want the many actions Karvecky took illustrating the firm's improved Compliance, once CSC had a Branch Supervisor and CCO, to be included in the hearing. They should have been included as a mitigating factor illustrating the firm's continued steps to improve compliance on its own.

II. FINRA Cycle-Exam Exit Letters Not Allowed Into Evidence

As a new BD owner, I looked at our FINRA Cycle-Exams as a report card. In our Membership Interview, we were told every new BD has a cycle exam within 6 months so FINRA can make

sure the firm is maintaining proper compliance. FINRA was at the firm for a large portion of the time we were in business, often completing one cycle-exam, only to start a new cycle-exam a few months later. All 3 regulatory cycle-exams were spotless when it came to all aspects of compliance, but especially client transactions & supervision. Every cycle-exam provided an exit letter discussing the areas FINRA reviewed and that needed improvement. Each letter mentions that FINRA reviewed "Customer Specific Suitability", "Quantitative Suitability", and "Firm Supervisory Systems & Controls" amongst other areas. During each cycle-exam, the same active accounts that have been brought into question by FINRA in this hearing, are the accounts FINRA reviewed for client suitability, excessive trading, and churning. There's not a single mention of a potential issue in any of the firm's Exit Letters. As an owner, I looked at those cycle-exams as a barometer of how our CCO & supervisors were performing, as did the firm's supervisors Crockett, Gentile, Karvecky, Lopez, Pellegrino, and Porges. Had the questions FINRA raised in this hearing, been raised during our cycle-exams, the firm certainly would have made additional adjustments if FINRA felt it needed to. I find it absurd that DOE did not include CSC's FINRA & SEC Exit Letters, which would explain the compliance track record of the firm better than any other documents. I attempted to submit the firm's Exit Letters into evidence during the hearing, however any time I even mentioned them, I was immediately told they're not relevant and not being submitted into evidence. I would understand if the cycle-exams did not mention that FINRA reviewed the specific client accounts relevant to this hearing, or if the cycle-exams did not review items such as "Customer Specific Suitability", "Quantitative Suitability", and "Firm Supervisory Systems & Controls", which are specific quotes taken directly from each of the Exit Letters of our cycle exams. I don't understand how they would not be relevant being that these are the exact areas in question in this proceeding.

III. There was no egregious violation of NASD Rule 3010, and no action warranting a bar in all capacities

On page 53 of the Hearing Panel Decision (BATES #015287), the HO speaking about myself directly, states: ***"the facts do not support a bar in all capacities."***

To further clarify the reasoning behind this decision, the HO points to another Disciplinary Hearing (*Pellegrino*, 2008 FINRA Discip. LEXIS 10, at *78-79) and states: *"In another case involving supervisory violations, the NAC explained: We do not conclude, however, that suspending [Respondent] in non-principal capacities is needed to deter him from engaging in other types of violations. Although we find that [Respondent's] failure to supervise was a serious violation, it was a failure in his capacity as a supervisor, not as a general securities representative. Applying the same reasoning, the Panel concludes that, while barring Taddonio and Porges in all principal capacities is required to protect the investing public, the facts do not support a bar in all capacities."*

Throughout the hearing, DOE continued to make outlandish statements that had no factual basis and the NAC Decision continued this practice. Page 33 of the NAC Decision (BATES #16027) states, *"The record demonstrates that Taddonio played a key role in creating a culture at the firm that allowed, and even encouraged, excessive trading by brokers. Taddonio's communications with broker's emphasized generating revenue, and he gave monthly awards to brokers for accomplishments such as opening more accounts and generating the most revenue".* There is absolutely no evidence that I ever suggested a broker should actively trade or churn a customer's account. Throughout this hearing, DOE & ultimately the NAC took the slanderous & inaccurate statements of Bader & Beyn and used them to make exaggerated & inaccurate claims. The NAC decision attempts to state that because I did a write-up on Apple Computers, and because I suggested that brokers buy Home Depot after Hurricane Sandy, this somehow encouraged active trading at the firm. There has been no evidence offered that any broker even used the write-ups on Apple or Home Depot, and there is certainly no evidence that they were ever used for active

or excessive trading. In fact, both the Apple & Home Depot write-ups were written to do exactly the opposite and were both longer-term investments. Furthermore, my testimony at my OTR was that I was frustrated with some of the performance in customer accounts, and the reason I wrote a nine page rant about Apple being such an incredible company, was that I was attempting to get brokers to purchase one of the most fundamentally sound companies in the market and simply hold the stock for the long-term. There's no connection whatsoever between the Apple, Home Depot, or any single recommendation I made in the history of the firm, to excessive trading/churning.

The NAC decision in multiple locations wrongfully states that I encouraged brokers to actively trade client accounts and generate revenue. For example, on pg 29, the Decision states *"Taddonio monitored sales activity, communicated with brokers on a daily basis and actively encouraged them to open new accounts and trade to make money for the brokers and the firm. Taddonio knew of red flags indicating that certain brokers were excessively trading accounts, but he took no steps to investigate those red flags and respond to the possible excessive trading. To the contrary, he encouraged brokers to in his words, "raise $$$$."* There are multiple locations in the NAC Decision including here and the bottom half of pg 4, which completely mischaracterize the use of the term *"Raise $$$$"*. The term *"Raise $$$"* has NOTHING to do with revenue or excessive trading/churning. *"Raising money"* is when a broker reaches out to current or prospective customers, to have them send new assets into the firm. Encouraging brokers to *"raise money"* is in fact the EXACT OPPOSITE of encouraging brokers to excessively trade/churn. When a broker raises new assets, it stops him from going back to the same clients and trading the same accounts over and over. It's absurd that the NAC Decision continuously states that I was encouraging brokers to trade when in fact, not only is there no evidence I ever recommended a single active trade in a client account, there's a great deal of evidence that I regularly encouraged brokers to *"open new accounts"* and *"Raise*

$$$$", both of which encourage brokers to do the exact opposite of trading actively. The more new accounts and the more new assets a broker raises, the less likely he is to continue going back to the same client accounts to trade.

Throughout the NAC decision, the NAC takes the exception and attempts to make it the rule. The NAC decision consistently takes a one-off occurrence and attempts to use it as an example of actions that occurred regularly at the firm. At the bottom of page 4, the NAC Decision again wrongfully states, that I *"encouraged brokers to trade accounts"*. The NAC quotes an email from Nov 2012, where I was in a car leaving for my honeymoon and was going to be out of the office for 2 weeks, immediately after Hurricane Sandy. Testimony at the hearing showed the Hurricane had had just hit, my neighborhood was under water and the office had been without electricity, email or telephones for multiple days. I even stated that I sent this email because *"I was concerned the company could potentially even go out of business if things did not get back up and running"* so, *"I sent out emails to brokers talking about the market, trying to keep them motivated and giving them a reason to come to work every day while New York and the office was in disarray."* (Hr'ng Tr. 789:20-790:19). Furthermore, attempting to motivate employees by sending an email encouraging them to work hard during the month of November by stating it's the last month of the fiscal year and is their Christmas paycheck month, is something that business owners do at different companies all over the world. To state this in some way encourages brokers to excessively trade/churn customer accounts is absurd. Additionally, evidence showed at the hearing, that sending out emails like this was NOT something I did regularly, and the extreme circumstances which led to this make using this email as an example of what occurred at the firm over the course of four years ridiculous.

The NAC's mischaracterization of my actions continued when the NAC Decision speaks about awards given out at the firm. Once again, the NAC wrongfully characterizes these awards

as a form of encouragement to excessively trade. This is absurd and without any basis. There is no evidence whatsoever that awards were ever handed out for active trading. Martella, Milano, Porges, and I, all testified that crystal awards/plaques were only given out in 6 of the 40 months the firm was in existence. In addition, they were given out for reasons such as Most New Accounts, Most Money Raised, and Hardest Worker, all of which help REDUCE active trading (Hr'ng Tr. 2289:23-2290:6). The more new accounts and new assets a broker raises, the less likely he is to consistently trade the same assets over and over. The "Hardest Worker" award was an award given to the broker who put in the most time and effort at the firm opening new accounts and raising new assets. This encouraged brokers to work hard to bring in additional clients & assets and not simply call their current clients to trade. Companies like Merrill Lynch & UBS give out multi-million-dollar-bonuses to their top producers and even raise the percentage payout their brokers earn based on the amount of revenue they do. Just about every company in the world gives out some award to its top producer, and I do not believe, nor has any evidence or testimony been provided, that a broker at the firm excessively traded an account to win an award for top producer. Especially considering, the handing-out of awards was not done consistently each month where a broker would have expected to receive an award if they were the top producer (Hr'ng Tr. 4029:10-4032:23).

The NAC Decision attempts to state that I should have been aware of red flags for excessive trading from customer arbitrations/complaints the firm received. Just because I'm named in a client arbitration as a respondent, does not necessarily mean I "failed to supervise". The NAC is fully aware that any client's attorney has a right to name any person at the firm in a complaint. For example, in some of these complaints the claimant's attorney named every person on the Form BD for "failure to supervise" including myself, Porges, Gentile, Crockett, the firms

original investors Bekkedam & Rovin and the firms FinOP, Andrew Miller, who was a roaming FinOp and did not even work directly for the firm. Although any customer complaint should be taken seriously, unfortunately, I'm also aware that for any BD with a large number of brokers and clients, it's unlikely there will be zero customer complaints over 3 years. At any firm, there will be clients that make money and clients that lose money, and some of the clients that lose may complain. Some of those complaints may be due to a client unhappy that he or she lost money through no fault of the broker, the firm, or the client, simply because an investment or several investments lost money. Other complaints are going to be legitimate complaints which need to be handled. Throughout the firm's history, the number of complaints in comparison to the 3,700 total accounts has represented an exceptionally small percentage. Both Crockett & Gentile, who were responsible for handling customer complaints each had 30+ years' experience, and I trusted them to do so. For the first year, Crockett testified that CSC, did not receive a single customer complaint (Hr'ng Tr 1870:17 - 1871:3). Crockett & Gentile had full power and authority to take whatever steps were needed to handle any incoming complaint. Additionally, many of the complaints that came into the firm arrived after the brokers registrations were terminated. Venturino had 1 complaint prior to his registrations being terminated. Furthermore, he was not a witness in this hearing, nor were any of his clients, and I don't believe he's been charged by FINRA with any action. Bader had 1 complaint prior to his registrations being terminated. Cannata had 2 complaints prior to his registration being terminated, and I believe the 4 complaints that came in regarding Beyn were part of the reason Gentile placed Beyn on heightened supervision. (Hr'ng Tr. 2918:25 - 2919:13) (Hr'ng Tr. 2921:2 - 2922:21). Placing Beyn on heightened supervision was another mitigating factor which was never considered when looking at steps the firm took to respond to compliance red flags.

On page 31 the NAC Decision states *"With respect to Taddonio's supervisory violation, we find the principal and supervisory bar imposed by the Hearing Panel inadequate given the egregious nature of Taddonio's violations, and his continued inability or unwillingness to recognize the seriousness of his misconduct or appreciate his regulatory responsibilities under industry rules."* I've stated multiple times in prior briefs and the hearing, that after going through this experience and having the benefit of hindsight, I believe there are areas that, looking back, I could have acted on sooner as CEO, and that I would act on immediately if they occurred today. I stated that, as a 28-year-old first time CEO of a BD, part of the issue was that I felt my job was to hire people with more experience than myself, and allow them to use their expertise to do the job they were hired to do. That's one of the main issues I feel came up during this hearing. There was great confusion surrounding the difference between the definition of a supervisor and manager. I never considered myself a supervisor. I considered myself a manager who hired supervisors that had more experience supervising transactions than I did. I was not trying to pawn off all the responsibility to others, I was simply trying to explain what my view was as a CEO with limited compliance experience. That's why I often mention the responsibilities that Gentile, Crockett & Karvecky had at the firm. I'm not attempting to completely pass the buck to them. I believe that was part of the issue with the Panel questioning my credibility when I spoke about my responsibilities in terms of supervision. I'm not attempting to say that I had no responsibilities, and that all responsibility laid with them. I'm simply trying to point out the different responsibilities that existed at the firm based on the job I felt I hired people to do. Even when I say they did a certain job, I'm still the one that hired them, so there's responsibility on my end in that respect. Crockett, Gentile, & Karvecky had been in compliance longer than I'd been alive, and I stated multiple times that I realize I should not have sat back and relied on them completely. I stated in my briefs and at the hearing, that I realized if I felt at some point, they

were not doing a good enough job, it was my responsibility to act. I'm also not saying that I did not take any action whatsoever. For example, I'm happy that we fired Crockett when we did, even though we had just completed a spotless FINRA Cycle-Exam. I simply felt that he was not taking enough action, and I do feel a large portion of the issues we had as a new firm stemmed from the time Crockett was CCO. I believe the firm's compliance continued to improve as time went by, especially once we had both a CCO in Gentile and Branch Supervisor in Karvecky. DOE continued to take the exception and attempt to make the Panel believe it was the Rule at CSC by using the false testimony of Bader & Beyn and trying to make the Panel believe there was this widespread excessive trading/churning occurring at the firm. The truth is that 3,695 out of 3,700 clients and 146 out of 150 brokers at CSC went without issue whatsoever. I believe there are additional steps that I learned through this experience could have been done better, which I think could have removed any issues the firm did have.

DOE offered no evidence showing that Crockett ever raised a red flag to anyone at the firm during his tenure. Crockett testified that the way he raised red flags to Porges & I was by handing us a list of active clients two times in his entire year at the firm. However, both Porges & I testified that we've never seen these alleged "lists" and in over 5 million pages of document production, these "lists" have never been produced. The sole evidence DOE offered in the case of Gentile was a monthly report which gave general information on every account that had been traded actively the month prior, whether Gentile felt there was an issue with the account or not (CX-86). None of these reports were highlighted or marked in any way separating an account Gentile wished to alert us about. As can be seen on (CX-86 pg1) there were also 5 additional reports along with the active account report, including a general profile of every broker at the firm, and a list of all assets under management. All together these reports were roughly 6 inches

thick and were given, 3-5 weeks AFTER the reported month ended. The trading referenced in the active account report given to me had taken place between 3 & 9 weeks prior. Because of this, it's clearly impossible that these reports were provided for me to follow up with some corrective action. Especially considering, in every one of these accounts which Gentile felt he needed to take corrective action, he had already taken it. In most cases he did so the following day after the trade was executed, directly after his review of the daily transactions (Hr'ng Tr. 3958:16 - 3961:20). I did state that looking back, I believe it would have been more effective to set a monthly meeting for myself, Porges and Gentile to review these reports together and discuss any concerns Gentile may have had rather than just depending on him to make the adjustments.

Firing Crockett and bringing in a new CCO was certainly the right move, and I do feel Gentile took many steps to improve the firm's compliance. After going through this experience however, I stated that if the firm had simply adjusted some policies slightly, it would have been more effective. For example, Gentile implemented a policy whereby once an account reached a certain cost/equity percentage he reduced the maximum commission the broker could charge on the account to 1%, 0.5%, or 0.25%. Had we reduced the commission to $0 until the Cost/Equity Ratio dropped below that set guideline, I feel it would have removed any potential question as to the motivation of the broker if continuing to trade the account. I also stated that if I opened another firm tomorrow, I would simply not allow Riskless Principal Trading, to remove any doubt that clients are unaware of the commissions being charged. Without getting into any individual clients, I do question some of the testimony we heard from multiple clients. All five clients seemed to be very educated with college degrees and were all very successful businessmen. Some of the statements made were proven to be inaccurate in terms of previous trading experience and knowledge of the markets or products traded in their accounts. However,

even though FINRA considers Markup/Markdown an acceptable way to charge commission, and though myself and multiple brokers at the firm used it without issue, I feel that as an owner, it would be easier to remove any potential misunderstanding. As a new owner seven years ago, I simply looked at it as a FINRA accepted form of commission. Today, I believe if it leaves any potential question as to whether a client understands the commission he or she is being charged, it's simply easier to have brokers charge an agency commission to remove any doubt. Especially considering the only real complaint any of the five clients at the hearing had was that they thought they were paying $99 in commission per trade. Had each of the commissions been an agency commission, it seems none of the clients would have had any issue, being that they all stated they did not have any issue with the losses in the account or the transactions in the account, and all five stated the broker kept in very close contact with them. Lastly, I believe another adjustment we made once Karvecky came on board wound up being more effective. Karvecky would reach out to clients more regularly than Gentile did both randomly and if he saw a client was trading actively for the day. Karvecky also reached out to see if clients had questions related to their active trading letter or affidavit. This was far more effective than having the broker reach out to the client and removed any doubt as to whether the broker was attempting to get the activity letter or affidavit back for his own benefit. 99% of the accounts and 98% of the brokers at CSC went without issue, and I feel many of the potential issues we had early on were due to the firm being a new, inexperienced firm.

IV. William J Murphy & Carl M Birkelbach, Exchange Act Release No. 69923, 2 (July 2, 2013)

I find it interesting that page 33 of the NAC Decision references this decision. The decision in *William J Murphy* further illustrates why a bar in all capacities in this hearing is far too egregious. The findings of wrongdoing in the Murphy/Birkelbach hearing go FAR beyond the

findings of wrongdoing in this hearing. Birkelbach was not only the President of his firm, he was also the firm's municipal securities principal, FINOP and Options Principal. Additionally, all five of the clients in the CSC hearing are more sophisticated investors than the two clients in the Birkelbach Hearing. The first client in the Birkelbach hearing, Lowry, was an unsophisticated investor who funded the account with shares of Procter & Gamble ("P&G") stock which she inherited from her father valued at $1.5 million. She was a 44-year-old single mother with 3 dependents and had been a self-employed artist for 25 years earning an annual income of $55,000, the majority of which came from her P&G dividends. The Annual Income of each of the clients in the CSC Hearing was significantly greater than $55,000 as they were all accredited investors based on their account documentation. The account opening documents for Lowry's account reflected investment objectives of "income", "long-term growth" and "income & appreciation" (with "income" as the top objective) and a risk exposure of "moderate." The account opening documentation for the CSC hearing clients listed investment objectives and risk exposures of "speculation" or "maximum growth".

Due to an emotional attachment, Lowry did not want to sell the P&G stock. Accordingly, Lowry approved her account for "covered writing." This approval was reviewed and signed by Birkelbach, who was the firms registered Options Principal. I did not sign a single New Account Form or approve a single client's trading activity. Gentile, Crockett, and Karvecky reviewed, signed and approved all account documentation.

According to *(US Court of Appeals 7th Circuit Decision 5/2/14 Birkelbach v. SEC p. 3-10)*, a broker named Jage managed the account utilizing a covered writing strategy until he left in Jul '02 with the account valued at $1.7 mil. Birkelbach transferred Lowry's account to Murphy, who controlled the account from Jul 2002-Feb 2006. Immediately upon transfer, the trading in the

account increased dramatically. From Nov 2004-Jan 2006, Murphy traded 4,000-8,000 option contracts per month in the account. Murphy also engaged in "round-trip" trading (selling and then buying back the same options contract for nearly the same price to generate additional transactions & fees without generating any profit). Murphy generated over $1 million in commissions from the Lowry account, and rapidly incurred substantial losses and a large margin balance. Murphy then lied about what the Margin Debit Balance was both in amount and reason for being there. Murphy also engaged in unauthorized transactions that were not part of the covered writing strategy authorized by Lowry. He wrote uncovered calls, wrote short puts, held long calls, and wrote short combination positions which the account was not even approved for. Then months later, Birkelbach approved Lowry's account for uncovered writing and spreading without ever informing Lowry. Murphy's trading beyond the "covered call strategy" that Lowry requested was frequent & flagrant. Murphy did not speak to Lowry before executing each trade. Instead, he spoke with Lowry once a month. Murphy also led Lowry to believe her account was profitable and that he was adhering to a covered call strategy. Murphy also sent Lowry "profit & loss" statements and "change in account value statements" riddled with errors and miscalculations overstating the profitability of the account as well as a "safe option strategies" document that described the strategies inaccurately and presented the risk & rewards in an unbalanced manner. Every client in the CSC hearing testified that they agreed to every transaction in their account. In fact, the Hearing Panel Decision (BATES #15287) states, *"To the extent that Beyn's customers understood and agreed to a speculative investment strategy, they would reasonably have understood that they were accepting high market risk, i.e., the possibility that the securities in which they invested might decrease in value. And indeed, none of the customers who testified complained about losses they incurred in speculative accounts as a result of market forces."* The only complaint the clients in the CSC hearing had was that they thought they were paying $99 in

commission per trade. Not one client complained of an unauthorized trade. No one at CSC was ever accused of overvaluing a client's account or providing false account statements to a client with errors or inconsistencies overvaluing the account. Additionally, I never approved a client for a suitability of trading that they were not aware of. In fact, I never approved a single account document at the firm.

Birkelbach had supervisory responsibilities concerning Murphy's handling of Lowry's account. As the Firm's SROP and CROP, Birkelbach was responsible for approving options agreements. All options trades required his approval, and he reviewed option trades daily to determine suitability and appropriate size & frequency. Birkelbach also reviewed "profit and loss" reports and "sales literature" Murphy sent to Lowry. All these items at CSC were reviewed by Crockett, Gentile & Karvecky, not me.

Birkelbach also knew Murphy had been previously censured, suspended, and fined by the CBOE, for trading without prior client authorization. None of the brokers in the CSC Hearing or in the entire firm had ever been previously censured, suspended or fined. In *(Admin Proc. File No. 3-14609 William J Murphy & Carl M Birkelbach* see pg 39), The SEC stated, *"In addition, Birkelbach has a relevant disciplinary history. In 1999, the Illinois Securities Department censured Birkelbach, imposed a six-month suspension with a requalification requirement, and ordered $50,000 in restitution to five customers for unauthorized trading, unsuitable transactions, excessive trading, and churning customer accounts—the same conduct that Birkelbach's supervisory failures allowed to occur here. Given his own misconduct in these areas, Birkelbach should have been particularly careful about detecting and preventing similar misconduct by those whom he supervised. And Birkelbach's prior discipline for misconduct related to his own customers supports FINRA's conclusion that a bar in all capacities is appropriate for the protection of investors because of the supervisory failures in this matter. More recently, Birkelbach consented to a FINRA order censuring him and imposing a 30-day suspension in all*

capacities, a 90-day suspension in principal capacities, and a $25,000 fine for alleged conduct between 2007 & 2009 that included, inter alia, a failure to adequately supervise in violation of NASD Rules 3010 and 2010."

I have no previous disciplinary history of being suspended or fined relating to the management of any client account nor have I ever received a customer complaint for an account that I managed in my career.

In Nov '05, while the trading was occurring in Lowry's account, FINRA requested Birkelbach place Murphy on heightened supervision based on its investigation into Murphy's behavior on the Lowry account, but Birkelbach ignored the request. FINRA never requested that any broker at CSC be placed on heightened supervision and Beyn was ultimately placed on heightened supervision by Gentile by the firm's own doing.

In the second account related to the Birkelbach Hearing a client named Martinelli opened an account at BIS in 1999 with the original broker, Langlois. Martinelli was a member of the US military stationed in Germany with an annual Income of $32,000 and Net Worth of $50,000; again, well below the Annual Income and Net Worth of the CSC Hearing clients. When Langlois left BIS in 2007, Birkelbach transferred the account to Murphy. In similar fashion to the Lowry account, without verbal or written authorization, Murphy began actively trading Martinelli's account immediately. Murphy continuously lied to the client about the value of his account which had dropped 45% in the first 2 months due to his unauthorized trading. Birkelbach's supervisory responsibilities were the same as with the Lowry account. However, at the time Birkelbach assigned Martinelli's account to Murphy, he was aware of the FINRA investigation into the Lowry account and had already received the request to place Murphy under heightened supervision which he ignored. Despite knowing Murphy's past habits of acting without authorization and knowing Murphy was continuing to do so with Martinelli's account,

Birkelbach never disapproved of any of Murphy's trades. None of the clients in the CSC hearing complained about issues remotely close to what occurred in the Murphy hearing nor did CSC clients ever state their broker lied about the account balance. Furthermore, I certainly never reassigned an account to a broker I knew had recently been investigated by FINRA, immediately after ignoring a request by FINRA to place that broker on heightened supervision, only to then take the same action in a second account all of which Birkelbach signed off and approved.

In FINRA Complaint No. 2005003610701 DOE v. Murphy, Birkelbach & BIS, The Panel found that "Murphy: (1) engaged in discretionary trading without written authorization from his clients or the Firm, in violation of NASD Rules 2510(b), 2860(b)(l8), and 2110 (cause one); (2) engaged in excessive and unsuitable trading, in violation of NASD Rules 2310, 2860, and 2110, and IM-231 0-2 (cause two); (3) churned customers' accounts, in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), Rule 10b-5 thereunder, and NASD Rules 2120, 2310, 2110 and IM-2310-2 (cause three); (4) traded beyond the approved level in a customer's account and engaged in unauthorized trading, in violation of NASD Rule 2110 (cause four); and (5) caused the creation and distribution of inaccurate, unbalanced, and misleading communications, in violation of NASD Rules 2210, 2220, and 2110 (cause five). The Hearing Panel found that Birkelbach failed to supervise Murphy, in violation of NASD Rules 3010, 2860(b), and 2110 (cause seven)."

Based on the fact the Murphy/Birkelbach hearing had multiple egregious findings of wrongdoing well above and beyond the CSC Hearing, the fact that Birkelbach ignored FINRA's request to place Murphy on Heightened Supervision, Birkelbach knew of FINRA's investigation on Murphy's multiple wrongdoings in the Lowry account prior to reassigning the Martinelli account to the same broker only to have the same activity occur and the fact that Birkelbach has a disciplinary history in the exact same areas as the findings, I'm not surprised the penalty was a bar in all capacities. Being that none of that is the case in this hearing, there's no way the penalty

should be the same. The use of this case should point to the fact that a bar in all capacities for the findings here would be excessive.

V. Default Decision Against CSC Should Not Be Included in Evidence

Being that CSC was no longer in business & chose not to fight any claims in the complaint, the default decision against CSC should not be evidence in this hearing. During the original prehearing conference, HO Fitzgerald stated the default decision against the firm would not be given until this proceeding concluded so as not to prejudice the decision against the respondents. The default decision makes multiple statements which are not accurate, however being that they were never fought against, could easily prejudice the decision in this hearing. For that reason, the default decision against CSC should not be included in the record. The default findings against the firm have nothing to do with the specific charges against the individual respondents and are not relevant.

VI. Hearing significantly impacted by FINRA allowing two witnesses to give what they knew to be false testimony in an effort to smear myself and the firm

Throughout this hearing DOE continued to exaggerate and make misleading statements even being reprimanded by HO Fitzgerald multiple times for continuing to speak on topics not relevant and spending a great deal of time using what the HO called "rhetoric and flights of fancy". For example, DOE consistently pointed to outlandish statements of Beyn which the panel *"unanimously agreed was one of the least credible witnesses they had ever encountered"* or by Bader, who each witness testified was an admitted drug addict and "pathological liar" who often lied to better his own interest and *"who's OTR testimony was hearsay for purposes of the hearing because Bader did not appear before the Panel; and given Bader's conduct and character as described in the testimony and exhibits offered in evidence, including the fact that he was fired by Taddonio and Porges, the Panel finds the testimony unreliable and accords it no weight."*

This hearing was significantly impacted by the fact that Bader & Beyn intentionally gave false testimony to smear CSC & myself in retaliation for being let go. This made it impossible for me to receive a fair hearing based on the large amount of false testimony throughout the hearing. Although the panel stated they gave Bader's testimony no weight due to his character and testimony of other witnesses, the false testimony he gave stating that the firm required all brokers to record calls and that the firm had technology in place to record all calls set a foundation that DOE used to confuse the panel into incorrectly determining that I had testified falsely. Once one disgruntled ex-employee in Bader would not show up to corroborate the ridiculous lies he told in his OTR, FINRA then called Beyn back in for a 4th OTR after the FINRA complaint against myself, Porges and Beyn had already been filed. FINRA knew Beyn had left CSC on negative terms and knew they had another disgruntled ex-employee who would lie the same way Bader had to smear the firm and other respondents he admittedly hated at the time. On pg 19 of the Hearing Panel Decision (BATES #15287) in the last two paragraphs it states, *"During Enforcement's investigation, while he was still associated with CSC, Beyn gave sworn testimony generally favorable to Taddonio and Porges in three OTRs. Later in 2015, however, Beyn left CSC after being placed on heightened supervision, and opened his own OSJ with another FINRA member firm. In his Answer to Enforcement's Complaint, filed in May 2016, Beyn leveled a wide variety of accusations against Taddonio and Porges, blaming them for the levels of trading in the customers' accounts. In June 2016, Enforcement took a fourth sworn OTR of Beyn during which he contradicted the sworn testimony he had given during his first three OTRs and accused Taddonio and Porges of a variety of improper actions relating to their supervision of CSC and interference in Enforcement's investigation. At the hearing, however, once again in sworn testimony, Beyn recanted the statements in his verified Answer and in his fourth OTR. Beyn also admitted, however, that when he opened his OSJ, he felt he would have an easier time transferring his customers from CSC if he had less competition from Taddonio*

and *Porges. Beyn said he was furious because many of his customers decided to stay at CSC. He stated: "I was trying to get [Porges and Taddonio] looked at more carefully so I could have an easier time of convincing my clients that our firm was a better choice." The Panel concludes that Beyn lied under oath at his June 2016 OTR in order to injure Taddonio and Porges and advance his own interests"* I do not see how a panel could come to a fair decision after hearing so much testimony that was admittedly false and intentionally designed to injure myself and the firm. Based on this, I would ask the SEC to dismiss the decision or remand the hearing back to FINRA so that it can be tried again without the false testimony of Bader & Beyn tainting the evidence.

VII. Evidence and testimony were mischaracterized by the DOE & NAC, which led to an improper finding of providing false testimony and improper sanction of a bar in all capacities

I'd like to point to the definition of the term False Testimony. *"Testimony is "false" if it was untrue when it was given and was then known to be untrue by the witness or person giving it. Testimony should be viewed in the context of the series of questions asked and answers given, and the words used should be given their common and ordinary meaning unless the context clearly shows that a different meaning was mutually understood by the questioner and the witness. If a particular question was ambiguous or capable of being understood in two different ways, and that the person truthfully answered one reasonable interpretation of the question under the circumstances presented, then such answer would not be false. Similarly, if the question was clear but the answer was ambiguous, and one reasonable interpretation of the answer would be truthful, then the answer would not be false."*

The Hearing Panel Decision (BATES #15287) pg 46 paragraph 3 states, *"During a February 13, 2015 OTR, former CSC RR Bader testified that ALL calls from customers to the firm were AUTOMATICALLY recorded by the firm, and that the RRs were also REQUIRED to record their calls with customers. Bader asserted that there was a SYSTEM to record outgoing calls on EACH RR's computer. Bader claimed that Taddonio REQUIRED the RRs to record their calls..."*

Bader made these statements in his OTR, stating these were firm policies at CSC. Not a single line in that testimony from Bader was determined to be accurate, yet these were the statements I was questioned about over and over in my OTR. There's never been any evidence offered or testimony from another single employee or broker that all calls from customers to the firm were automatically recorded by the firm, or that there was ever any requirement for RR's to record calls with customers. There's never been any evidence or testimony that there was any system on each RR's computer to record outgoing calls or that all senior brokers were required to record all calls.

In fact, there were over 150 brokers and trainees that came through CSC. The Hearing Panel Decision inaccurately states on the last paragraph of pg47 and first paragraph of pg48 that *"invoices submitted in evidence show that 50 recording devices of various types were purchased by the firm from June 2012-April 2014"* and points to (CX-18). I objected to the inaccuracy of this document at the hearing. It inaccurately describes a control that was purchased with each of the handheld recorders at Radio Shack as a separate recording device, when it was simply an accessory to the device. This cut the number of recording devices that actually existed in half. I was told by HO FitzGerald that the Panel would be able to see the actual number of recording devices from the receipts in (CX-19) and would take that into consideration. Based on the Decision stating incorrectly that there were 50 recording devices, it does not look like the Panel did. If you look at the receipts (CX-19 pgs 21,23,28-29 & 33), with each recorder that was purchased, a "recorder control" was also purchased which looks to be an accessory to the recorder, not a separate recorder. The inaccuracy of (CX-18) listing 50 as the number of recording devices purchased without question influenced the Panel in making it appear that there were far more recorders and far more brokers recording calls than truly existed.

When looking at (CX-18) and the receipts from (CX-19), there were a total of only 7 USB recorders (Brickhouse Security and Digitalks) purchased at CSC over the first 2 years at the firm (Jan'12–Jan'14), and one additional order of 5 USB recorders on April 30, 2014, which evidence showed was never opened. Evidence showed that Porges intercepted the order of 5 USB recorders when it arrived at the firm, told Samantha she could not order recorders and put the unopened devices in the firm's IT room (CX-108 pg 41) (Hr'ng Tr. 990:20-992:25). In (CX-19) DOE puts 2 copies of the same receipt for that purchase (pgs 37&42) which makes it look like there was an additional 5 USB recorders purchased, however these 2 receipts are identical. Looking at (CX-18), it's clear that after the April 30, 2014 order there was never another recorder purchased. This was almost an entire year prior to my OTR on March 20, 2015. During the hearing, evidence showed that Bader stated 4 of the USB recorders were his, which means there were a total of 3 USB recorders that existed at the firm, leaving out the 5 USB recorders that Brent intercepted which were never opened. Based on the fact Nicholas Milano and Michael Venturino both testified they used a recorder at some point, although Venturino testified in his OTR that his recorder broke early on and he never really used it, I would imagine those 3 recorders belonged to Milano, Venturino and Paul Desir [Desir's name appears on (CX-16) on some of the files that were backed up to the server]. DOE attempted to wrongfully influence the panel by making it seem like there were brokers all over the firm recording calls, however, it's clear there were a total of 4 brokers out of over 150 brokers and associated persons that came through CSC who ever had a USB recorder. There was clearly no firm-wide policy of recording calls. There is also no evidence whatsoever that these other handheld recorders purchased from Radio Shack were ever used to record conversations with clients and looking at (CX-40 pg 1) it states, *"The new VN-702PC digital audio recorder is great for simple and easy note taking in the classroom or at work."* There's just as much likelihood brokers used these recorders for note taking or multiple other

potential reasons than to ever record conversations with clients. In fact, there's no evidence these handheld recorders were ever used at all.

Still, I was told over and over in my OTR that FINRA had reason to believe there was a firm-wide recording system and that all calls from customers were automatically recorded by the firm. I was told this was Bader's testimony and I was asked questions regarding that testimony. When you enter an OTR at FINRA you're told to simply answer the question you are asked and ONLY the question you are asked. You're instructed never to speculate and to only answer positively if you are 100% certain of your recollection. It's infuriating that I could be asked questions in an OTR under a certain context and then later have DOE generalize and slightly change the context of the question that I was asked, in an effort to influence the Panel and make it look as though the testimony was false.

I point to my testimony that relates directly to this charge (CX-114 pgs2-5). After speaking for hours about many of the misleading and inaccurate statements that Bader made about the firm, including the fact that FINRA had reason to believe there was a firm-wide recording system and that all calls from customers were automatically recorded by the firm, I was asked, *Mr. Taddonio, did "the firm" use audio recording devices to record conversations of brokers?"*. My answer to that question was *"No"* and that is not false testimony. *"The Firm"* did not ever use audio recording devices to record conversations of brokers. There is a very distinct difference between *"the firm"* and *"brokers"* of the firm. There has never been any evidence provided that showed *"the firm"* used any recording devices to record conversations of brokers. Even looking at the wording of the question, it's clear that the question is asking if *"the firm"* (as an entity) ever used audio recording devices to record conversations of its brokers. The question could not be asking if *"brokers"* used audio recording devices to record conversations of brokers because

that question would not even make grammatical sense. Only *"the firm"*, if it had some form of audio recording device would be able to record conversations of its brokers and that is the question I was asked. The fact that there were some brokers who may have recorded some conversations with clients has absolutely nothing to do with that question and certainly does not make my response false or inaccurate.

On [CX-114 pg 2 (223-224)] I'm then asked the same question, "*Did "the firm" use audio recording devices to record conversations of trainees/any person associated with the firm/customers/prospective customers"* My answer was again *"No"* to each of those questions which for exactly the same reasons was clearly not false testimony. It would once again not make sense if that question was intended to ask if brokers were recording conversations with trainees for example as brokers would not be having phone conversations with trainees. That question clearly was asking if *"the firm"* as an entity, used any recording devices to record its trainees/customers/prospective customers or anyone associated with the firm. Once again, this question is clearly in response to Bader's testimony that the firm had a recording system that recorded all of it's brokers, trainees, etc. The question was answered accurately with a *"No"* response.

(CX 114 pg 224) then simply clarified the timeline on the previous question by stating *"So the record is clear, Mr. Taddonio, we're talking about any time from the commencement of the firm through the present."*, to which I responded *"Yeah. No. I Don't know of any recordings, anything. No."* My response to the question is the same as my previous response. I'm confirming that I don't know of any recordings that would exist from the firm having an audio recording device to record conversations of prospective customers being that the firm did not have a firm-wide system of recording prospective customers.

On (CX-114 pg 224) I'm then asked, *Did "the firm" use a recording software or computer program to record conversations of brokers?* to which I responded *"Never"*. This testimony was also clearly not false. It's clear the question is regarding whether *"the firm"* (as an entity) was using a recording software or computer program to record all conversations of brokers as they had been told was being done by Bader. The question was not "Are you aware if some brokers at the firm have ever used individual recorders to record conversations with their clients?". I was never once asked that question and furthermore, I even provided testimony earlier in my OTR and at the hearing that when I was at Pointe Capital earlier in my career, ALL brokers, including myself obviously, were required to record the initial call with a client to show the branch manager they received a good order. I stated that when we left Pointe Capital and went to Brookstone, there was no longer a requirement to record any calls, although I did believe some brokers continued to record calls out of habit. Certainly, less than at Pointe Capital however, being that there was no longer a requirement. I further stated that by the time we went to CSC, being that there had not been a requirement at Brookstone for the previous 2 years and was still no requirement to record calls at CSC, I did not believe that anyone continued to record calls by that point (Hr'ng Tr. 3993:11-3994:4). Whether or not I was aware that 4 out of the 150 brokers that came through CSC had asked the firm's sales assistant to order them a recorder and that at least one of the brokers, Milano recorded at least one phone call is a moot point as I was never even asked this question. Samantha Martella, the firm's sales assistant testified extensively to the fact that I would never have been involved in the ordering of recorders or handling of receipts or invoices at CSC. FINRA attempted to make it seem as though there were recorders all over the office which were provided by the firm and that this was a firm policy of recording calls. In fact, that's clearly not the case. The Hearing Panel Decision points to CX-18. In the first six months at CSC,

there was only 1 single USB recorder ever ordered (June 2012). Four months later 10/26/12 there was one additional order for 3 USB recorders. Seven Months later, on 5/21/13 there was an order for 1 USB recorder followed by an additional order of 1 USB recorder an entire seven months after that on 12/27/13. There was 1 more USB recorder ordered on 1/15/14 and finally a last order placed three months later for five USB recorders which was the order that was intercepted by Porges when it arrived at the office and was never opened. Clearly this was not something being done regularly at the firm or some firm policy as Bader had stated. I testified accurately that it was not. There was a total of 6 orders of USB recorders over the course of 2 years, the last of which was never used and all of which occurred an entire year prior to my FINRA OTR.

On (CX-114 pg 225:2-23) I'm asked the same question, *Did "the firm" use a recording software or computer program to record conversations of trainees/associated persons/customers/supervisors/prospective customers?* to which I responded, *"No"* to each. This was again not false testimony for the same reasons. It's clear these questions once again were asking if "the firm" (as an entity) used a recording software or computer program to record conversations as FINRA had been told by Bader that it was. The question would not make sense if the intent was to ask if "brokers" used a recording software or computer program to record conversations of "brokers" or if "trainees" used a recording software or computer program to record conversations of "trainees". Even if I had been aware at the time that Milano, Venturino, Desir or Bader had potentially used a recorder to record a call with a client, it would not have been responsive to the question.

(CX-114 pg 225:24) I'm then asked, *Did "the firm" ever have in place any technology for the purpose of recording telephone conversations* to which I responded *"No."* Once again, this testimony is not false in that "the firm" never did have any technology for the purpose of recording telephone conversations as Bader stated to FINRA it did, and who's testimony FINRA

was questioning me about. Again, although I did not believe any brokers had still been recording any calls at that time, whether or not I was aware that a handful of brokers may have been recording some calls with customers has nothing to do with this question and would not be responsive even if I had been aware. This question was in direct response to the testimony of Bader that "all calls from customers to the firm were automatically recorded by the firm".

(CX-114 pg 226:4) I'm then asked a clarification question regarding the prior question, "*That includes all conversations of all persons associated with the firm?*" To which I responded *"Yeah"*. Again, that testimony is correct. I was simply stating that "The firm" did not ever have in place any technology for the purpose of recording telephone conversations of all persons associated with the firm. There has never been any evidence whatsoever that the firm did.

(CX 114 pg 226:7) I'm asked, *Did "the firm" otherwise provide to its registered representatives, trainees or other associated persons any technology and/or devices for the purpose of recording telephone conversations?* to which I responded *"No"*. Again, this question is in direct relation to Bader's testimony which can be seen in the Hearing Panel Decision that all brokers were provided with recorders and were required to record every single conversation at the firm. Once again, my answer was accurate in that there was never any policy in place where all brokers of the firm were provided with recorders and were required to record all calls as Bader stated and FINRA suggested. Had that been the case, there would have had to have been over 150 recorders purchased as there were over 150 brokers and trainees that came through CSC. Samantha Martella, the firm's sales assistant never once stated that she was ever told by me to order a recorder for anyone at the firm. She also testified that I would never have been involved in the ordering of recorders or any type of items/supplies that brokers ordered at CSC. Lastly, I do not believe that 4 brokers out of 150 who came through CSC asking the firm's sales assistant to order them a recorder would constitute "the firm providing its registered representatives,

trainees or other associated person's any technology and/or devices for the purpose of recording telephone conversations" whether I was aware at the time or not, although as I stated, I did not believe any brokers had continued to record calls at that time.

(CX 114 pg 226:13) I was asked *Did anyone, to your knowledge, at "the firm" ever use any devices and/or technology to record conversations with brokers?* to which I responded, "*No, not to my knowledge, no*". Clearly, once again this question was asking if anyone at the "firm" (as an entity) meaning myself or Brent Porges as owners of the firm use any technology to record the conversations of brokers. Once again, this question is directly regarding Bader's testimony to FINRA that CSC had a firm-wide recording system that recorded all brokers calls which FINRA then questioned me about. The question would not make sense under any other interpretation. Had FINRA been asking if "brokers of the firm" ever used devices and or technology to record "conversations with brokers", the question would not make grammatical sense. I was then asked the same question with the last word changed to trainees/customers/prospective customers just the same as I had been on each question prior and obviously my response was the same for the same reasons.

Those are the questions the Panel references on pg 47 paragraph 2 of the Hearing Panel Decision (BATES #15287) that they considered responses to false testimony. It can be seen even further that my clear interpretation of the questions I was being asked were in relation to Bader's testimony that the firm had technology in place to record all calls of the firm on (CX 114 pg 229:11). I was asked, "*Has anyone ever told you that he or she recorded a conversation with a Craig Scott Customer?*". I responded, *"No. I don't believe so no."* I was then asked, *"Do you have any doubts about that?"* I responded, *"No. again, it was kind of a different question than the others. I'm trying to think. No one has ever told me. No, never."* That was the first question that I thought could

possibly be related to a broker recording a conversation with a customer himself, and I even stated that it was the one question that was different than the others. However, at the time, I could not think of any broker telling me he had recorded a conversation with a CSC customer. Still to this day the only conversation I believe could have been possibly told to me about was the conversation that Milano had with his client Byrd that he emailed me. As I stated at the hearing, not only do I not recall hearing this conversation that was recorded between Milano and Byrd, I was surprised to hear it the first time I did in my OTR, because I don't recall Milano EVER speaking to Byrd. Byrd was a client of Baders from the day after Milano opened the account until well after Bader was terminated. Byrd transferred his account out of CSC to continue to work with Bader and was one of Bader's largest clients who he spoke to often. Milano testified this was not only one of the only times he ever spoke to Byrd, but one of the only times he ever spoke to any client other than "the opening of the new account and one or two maybe follow up calls" (Hr'ng Tr. 1774:13-21). My testimony at the hearing was very clear in that I didn't recall ever opening this email or going over the recording with Milano, so much so that I wasn't sure it had definitely occurred. I testified that it was possible even that Milano was simply saying he went over it with me because he has a Series 7, of course now knows that it was against the firm's WSP's to record calls and is an easy way to remove any potential liability from himself by simply saying, "Yes I did it, but my boss knew about it" (Hr'ng Tr. 4049:13- 4052:8). As I said at the hearing though, it's also possible that I did go over it with Milano and just don't recall, being that as Milano testified, it's the only single time in the history of the firm that it would have happened, and as I mentioned, would have been two years prior to my OTR. The Extended Hearing Panel Decision references this call as evidence that I gave false testimony however, I do not understand how one phone call being emailed to me in the history of the firm's

existence, 2 years prior to my OTR is evidence of false testimony. Nor do I see why it would have come to mind when sitting and being told that a prior broker is telling FINRA there's a firm-wide system of recording all calls at CSC. As I stated, it is possible that I did not recall this conversation from 2 years prior while at my OTR, but it would most certainly not constitute false testimony. The Hearing Panel decision states that it *"credit's Nick Milano's testimony that he emailed a recorded call with a customer to Taddonio and subsequently discussed his sales presentation during the call with Taddonio, seeking feedback, and that Taddonio did not seem surprised that the call had been recorded or direct NM to cease recording calls"*. This too is in no way an indication of false testimony, as I don't believe at the time I would have potentially listened to this recording, it would have stood out to me as a major issue at all. Aside from possibly being against the firms WSP's, I certainly would not have been concerned that it was a major violation of some FINRA or SEC rule being that there is no law that says you cannot record phone calls. Furthermore, as I stated, brokers had recorded calls at Pointe Capital and some at Brookstone prior, so I don't know that back then, two years prior to my OTR, it occurring once would have raised any major red flag to me (Hr'ng Tr. 3994:8-4000:23).

The Hearing Panel Decision (BATES #015287 pg 49) states *"Even though Enforcement did not find recordings of telephone conversations on the copied hard drives, the Extended Hearing Panel finds sufficient evidence to conclude that there were recording devices in use at CSC and that at least some calls between CSC associated persons and CSC customers were recorded."* Aside from the fact that is not one of the questions I was asked in my OTR, which FINRA is stating I gave false testimony to, other than one conversation between Azar & Porges and one conversation between Milano & Byrd, The Decision does not point to a single additional piece of incontrovertible physical evidence that any calls were recorded with clients of CSC. There was not a single recording of a conversation between a RR and customer of the firm on any of the 10 hard drives

copied by FINRA in their unannounced visit. For example, the Hearing Panel Decision points only to circumstantial evidence when it states on pg 49 *"The Panelfurther credits NM's testimony that Taddonio and Porges encouraged RRs to record calls with customers"* When asked if he was instructed to record conversations with customers, Milano testified that "it was encouraged" by Porges and myself, not that he was instructed. The reason Milano testified that it was "encouraged" was because he was never instructed to record calls by myself and even later testified that no one including myself, Porges, Crockett or Gentile ever asked him if he was recording calls. Milano also testified that it was possible it was Bader who had told him it was encouraged to record calls for quality and training purposes, being that Bader was his senior broker who had trained him (Hr'ng Tr. 1773:4-1774:3). Porges also testified that this was an issue we had with Bader where Bader would tell brokers what to do and tell them it was what Brent and I wanted (Hr'ng Tr. 3678:19-24). To get his junior brokers to do what he wanted, Bader would say, "It's what the bosses want". It was especially an issue with Milano, who was Bader's first junior broker and friend. Porges testified that *"it seemed very important to [Bader] to direct other people and be in charge of other people"* and that upon Bader being terminated a document was found in his office that *"articulated what Milano was to do on almost a minute by minute basis throughout the day"* (Hr'ng Tr. 3730:21-3734:17). Milano also testified that there was one single time he sent me an email other than a personal email regarding my bachelor party and only one single time he recalled reviewing a recording of a client conversation with me in all his time at the firm (Hr'ng Tr. 1774:4-21) (1775:20-1776:5). FINRA and the SEC reviewed hundreds of thousands of my personal and business emails and Crockett, Gentile, and Karvecky also reviewed my CSC emails, and this is the only single instance of a broker emailing me a recording. If this was "encouraged" by me for quality and training purposes, why would this be the only single

recording emailed to me in the history of the firm? There would be hundreds of emails from dozens of brokers all looking for assistance if that were the case.

The Hearing Panel Decision also states on pg 49 *"The Panel also finds Taddonio's and Porges' claims that they were unaware that the firm's RRs were recording calls not credible because the photographic evidence introduced by Enforcement shows the devices were in plain sight on RRs' desks."* This finding is absurd considering the only photos which show devices on RR's desks are (CX-44 pg1) which shows 1 photo of a very small handheld device which does not look to be connected to anything, and looks like it can be removed at any time on a desk with a dozen other items. There's no evidence that this device remained on that desk for longer than that day or that there was any device that remained on any other desk at the firm. (CX-44 pg 3&5) show two desks which were Bader & Milano's which were in the furthest back corner of the office tucked behind a wall, 50 feet beyond my office. A person would have to be physically sitting at either desk to see the small recording device hidden amongst multiple other items behind large screens and a divider wall. Furthermore, both CCO's, Gentile & Crockett, who were in the office every day testified that they never once saw any recording devices on a RR's desk (Hr'ng Tr. 3379:13 – 3380:2) (Hr'ng Tr. 1972:6-21).

Finally, on pg 49 paragraph 3, the Extended Hearing Panel Decision lists an email dated April 23, 2013 which I emailed to Porges 2 years prior to my Mar 2015 OTR with a recording of Porges speaking to a client Azar attached. Once again, the Decision takes a one-off scenario and attempts to use it as evidence that I gave false testimony regarding a question I was never asked. At my OTR, I was never once asked if I ever had the ability to record conversations. I was repeatedly asked if "the firm" used a recording software or computer program to record calls, or if there were recording systems in place at the firm to record calls between brokers and customers. The firm never used a recording software or program to record calls nor did it have a

recording system in place to record calls between brokers & customers. The existence of this one recording is not evidence that it did. Additionally, being that at the time of my OTR I had probably not spoken to a client, used a recorder or had any need to record a call for years, had I actually been asked if I had the ability to record conversations at my OTR, I believe my answer still would have been no, as I don't believe I had used a recorder for years at that point. I even stated in the hearing and at my OTR that earlier in my career at Pointe Capital, all brokers including myself were required to record their initial call with a customer to show the branch manager they received a good order. When we left Pointe Capital and went to Brookstone there was no longer that requirement, so I believe less brokers recorded calls. By the time we went to CSC, I didn't believe any brokers continued to record calls being that there was still no requirement to do so. I testified that over time at Brookstone, I dealt with less and less clients as I now owned a branch of the firm and had other responsibilities. For that reason, the need for me to record calls with customers became less and less until I no longer dealt with clients aside from primarily friends & family at CSC (Hr'ng Tr. 4000:24-4003:8). Obviously, without managing clients and running transactions, there was no need to record client conversations. While at my OTR, I was shown an email of a recording of Porges and Azar from 2 years earlier. At the hearing, I stated that I did not recall the client whatsoever as it went back to 2013 and of the 3,700 clients of the firm, Azar was not one of the active clients. I had never spoken to Azar, but I testified that although I certainly did not recall ever sending this one email, I speculated that it was not out of the realm of possibilities that I could have recorded the call. I was unsure if I did, but I stated that going back that far, I could not recall the exact date when I stopped speaking to clients entirely, and therefore had gotten rid of the recorder that I used at Pointe Capital & Brookstone. I stated at the hearing and in my OTR that I did have the ability to listen in on phone

calls which I even stated, I used when I would call a broker and the phone would keep ringing to see if the broker was away from his desk or on the other line. I was speculating as I could not recall the Azar conversation, but that was the only way I could imagine the call being recorded while Porges was on the phone with Azar, assuming I still had the ability to record at that point. I stated that looking at Azar's complaint, Azar went as far as stating he had been "ripped off" and that "his attorneys would be starting an investigation with the states attorney's office and SEC...into [Cannata's] scams". Although it was 2 years prior to my OTR and 4 years prior to the hearing, the only thing I could imagine was that because the complaint was worded so aggressively, I may have wanted to record the one conversation. I had used a recorder back when I spoke to clients, so I imagine it could have been possible to reattach it for that one call or potentially have still been there going back that far, even if I didn't use it any longer being that I didn't really speak to clients anymore. Either way, when I was told at my OTR that Bader testified that there was a recording system at the firm that recorded all calls and was asked if "there was a recording system in place at Craig Scott to record calls between brokers and customers", I don't believe I would have thought back to this one single recording of a call I was not even on, two years earlier, which I still don't fully recall to this day. Nor do I think it would have been responsive if I had recalled it.

Pg 54 of the Hearing Panel Decision states *"The Sanction Guidelines indicate that a principal consideration in setting sanctions for providing untruthful information to FINRA is the "[i]mportance of the information requested as viewed from FINRA's perspective. In this case, the recordings that Taddonio and Porges were questioned about could have been critically important to Enforcement's investigation and to the Panel's evaluation of the charges, because such recordings of conversations with customers could have provided clearer and more reliable evidence of the interactions between the firm and its customers than the testimony of witnesses. While it's impossible to be certain that the contractor*

who had archived CSC's records still retained any recordings as of the dates ofTaddonio's and Porges' OTRs, if they had testified truthfully, Enforcement would at least have had an earlier opportunity to seek the recordings from the contractor. By not testifying truthfully, Taddonio and Porges deprived Enforcement of that opportunity." This is 100% inaccurate. There is absolutely no evidence aside from the 1 conversation between Azar and Porges (who was not a broker) that there's a single call between a broker and client in the list of .wav files backed up by Advisor Vault. Although the Decision states on page 48 paragraph 3, that some of the file descriptions include names of CSC customers whose accounts are at issue in this proceeding, it's not accurate. Of the 5,011 .wav files backed up 4,100 of them pre-date CSC's existence. Furthermore, the files labeled "Briggs", "Dewitt", "Baumann" and "Faggioni" are all client or broker names dating back to Pointe Capital and Brookstone (Hr'ng Tr. 1371:8-1372:19). None of those files are dated so there's no evidence they reference activity from CSC. Being that the charges in this case were a failure to supervise excessive trading/churning of specific client accounts and being that none of those clients were found to have been excessively traded or churned, there's no evidence that a recording of a conversation with those clients would have assisted the investigation whatsoever. There's also been no testimony or evidence that Beyn would have been on a single recording to assist in this investigation. Lastly, this list of .wav files was discovered during CSC's 2015 Cycle Exam in an email Advisor Vault sent stating *"CSC List of items being backed up as of 7.14.14"* (CX-34). Immediately upon learning of this list, both the firm and FINRA attempted to recover the files from Advisor Vault, however they'd been deleted by Advisor Vault due to non-payment dating back to Feb 2015, one month prior to my Mar 2015 OTR. My OTR testimony had no impact on Enforcements ability to obtain these files as the Hearing Panel Decision wrongfully states. They'd been deleted prior to my OTR and would not have been recoverable no matter my testimony (RX-36).

VIII. At the commencement of my NAC Appeal Oral Argument, I attempted to withdraw the portion of my appeal relating to supervision, however proper Code of Procedure was not followed

Although I felt the penalty of a lifetime bar in any principal capacity was excessive, I attempted to withdraw the portion of my appeal relating to the Hearing Panel Decision that I failed to exercise reasonable supervision and penalty of a lifetime bar in any principal capacity and solely appeal the Hearing Panel Decision that I gave false testimony to FINRA in an on-the-record-interview, and penalty of a lifetime bar in any capacity. Upon requesting the withdrawal of the portion of my appeal related to supervision, I was told by the Chair, Mr. Meegan, as well as Ms. Passaro that although I could withdraw the supervisory portion of my appeal, the NAC would still review the decision related to the supervisory portion I was withdrawing and still increase, decrease, or maintain the finding and penalty. I don't believe the order of procedure was followed properly, nor was I given the correct opportunity to withdraw that portion of my appeal. According to the 9300 series of Rules in the Code of Procedure, Rule 9311(f) *"Withdrawal of a Notice of Appeal or Cross-Appeal"* states *"Upon the withdrawal of a notice of appeal, any outstanding cross-appeal shall be treated as an appeal unless it is withdrawn."* Upon the withdrawal of that portion of my appeal, DOE should have been then given the opportunity to either withdraw their cross-appeal to that portion of my appeal or treat it as an appeal. Rule 9312(d) states, *"If the review of a disciplinary proceeding by the NAC is terminated before the NAC issues a decision on the merits because all appealing Parties file a notice of withdrawal of appeal and no Party previously filed a notice of cross-appeal, or all Parties who previously filed a notice of cross-appeal file a notice of withdrawal of cross-appeal:*

(1) a member of the NAC or the Review Subcommittee shall have the right to call for review a decision issued pursuant to Rule 9268 in accordance with Rule 9312(a)(1), except that the 45 day period during which a call for review may be made shall begin on the day FINRA receives the

last filed notice of withdrawal of appeal or, if applicable, the last filed notice of withdrawal of cross-appeal;"

I don't believe this procedure was followed (NAC Transcript BATES #15771 pgs 5-10). After stating that I'd like to withdraw the portion of my appeal relating to supervision and maintain my appeal relating to the false testimony allegation, Mr. Meegan (Chairman), stated we were going off the record and Mr. Meegan, Mr. Sturc (Panelist) and Ms Passaro (FINRA Office of General Counsel) left the room to discuss. When the three of them came back into the room and we went back on the record, Mr. Meegan stated, *"you are able to withdraw your appeal challenging the supervision finding. I just want to make sure you are aware that we as the NAC can either reduce that or increase it. So, by just withdrawing it that doesn't mean it will stay exactly as is."* I explained that I didn't believe that was the way it worked; however, I was again told my Mr. Meegan *"We have the right to increase [the supervisory bar], keep it the same, or decrease it. So I want to make sure you're aware that we have the right to still do that even though you are withdrawing it."* There's a proper Order of Procedure to be followed if I wish to withdraw a portion of my appeal. I believe I should have been given the opportunity to withdraw the portion of my appeal related to supervision as I requested. DOE should have then been given the opportunity to either withdraw their cross-appeal to that portion of my appeal or treat it as an appeal. Then the NAC should have been given the right to call for review the decision in the next 45 days with a written notice of review to all parties. I then asked a few more times for clarification being that I did not believe the panel could just automatically decide to increase, decrease or maintain the findings without the order of procedure being followed (NAC Transcript BATES #15771 pg7-10). I finally stated that in light of the Panel & Ms Passaro telling me that if I withdrew the portion of my appeal related to supervision, the Panel could still increase, decrease or maintain the finding without me having

any opportunity to oppose, that I would not withdraw that portion of my appeal. Being that the order of Procedure was not followed, I believe the findings should be dismissed.

Furthermore, I'm confused as to Ms Passaro's role in this hearing and question if DOE acted improperly in the use of Ms Passaro. It was always my understanding that Ms Passaro was the Case Administrator and my contact throughout this entire Proceeding at FINRA, the NAC & the SEC. Almost all correspondence I've received from FINRA relating to all proceedings (ie: briefing schedules and notices of motions) have been from Ms. Passaro. Ms Passaro then appeared at the NAC Oral Argument sitting directly next to the Panel across the table from both DOE and the respondents stating she represented the Office of General Counsel (NAC Transcript BATES #15771 pg2-3). I believed this to be a continuation of her case administrator role as an unbiased, impartial party. Recently though, on June 4, 2019, I received an opposition to my request for a 2-week extension of time to submit this brief written and signed by Ms. Passaro. I'm confused as to how the case administrator, who I have submitted all requests to for years including my own requests for extensions of time to submit briefs, and who I believed was an unbiased party to this proceeding, could now be writing an opposition to a motion I submitted. This also makes me question how Ms Passaro was sitting directly next to the Panel across the table from both DOE and the respondents at the NAC Oral Argument. In addition, I question how she was able to leave the room with the Panel and have off the record discussions with the Panel as to how the Hearing would be handled, immediately after I attempted to withdraw the portion of my appeal relating to supervision. It appears Ms Passaro is not an unbiased party to this proceeding as it seems she's taken on a role at the DOE in this proceeding by opposing motions I file. I request that this be investigated, and if DOE did act improperly in the use of Ms

Passaro, I request the findings against me be dismissed or the case be remanded back to FINRA for a new hearing.

IX. I was severely prejudiced in my ability to defend myself properly based upon Enforcement's irresponsible attempt at providing discovery

FINRA Rule 9251 *"requires Enforcement to make available to a respondent for inspection and copying all documents prepared or obtained by FINRA staff in connection with the investigation that led to the disciplinary proceeding."* It's essential that Enforcement exercise diligence in complying with this obligation, as rule-compliant document production by Enforcement is fundamental to a fair disciplinary proceeding. Under the Code of Procedure's regulatory scheme, a respondent relies substantially on Enforcement's good faith and diligence in producing documents. In most cases, a respondent will never know what documents Enforcement has withheld. In this hearing, Enforcement document production encompassed over 5 million pages of materials all of which were only described by their bates number ranges and none of which were indexed or labeled.

On the first day of the hearing HO FitzGerald stated "the hearing panel is committed to ensure the proceeding is conducted with fairness to all parties." (Hr'ng Tr. 6:2-5). HO FitzGerald then went on to state that at the prehearing conference the Respondents indicated we were having difficulty accessing some of the documents included in Enforcement's electronic production despite having received some technical assistance from Enforcement. He then asked Enforcement about the Production. (Hr'ng Tr. 6:10 – 21:21). Enforcement explained that there were some 5 million documents in production to which HO Fitzgerald even questioned how Enforcement could possibly work their way through without some sort of index (Hr'ng Tr. 8:17-10:25). Enforcement stated they did have an index they maintained internally but simply provided the documents to us on a hard drive with *"absolutely no filing. There is no labelling. There is no organization. There is no separation. It is two files with some astronomical number, all labelled one*

through some insane number" (Hr'ng Tr. 11:10-14:20) After being told by Enforcement the file was searchable, I explained that the files were not searchable because the only title they had was a bates stamp. The HO Officer again showed concern stating *"I'm trying to get an understanding about this. So, you didn't find you had the ability to search for particular names you might want to look for. If you wanted to search a customer name that was named in the case, you didn't have the ability that you are aware of to just put that name in there and pull up every document or page that had the name in there?"* to which I responded *"No"*. Enforcement attempted to say that all the files were PDF files, which I explained was inaccurate as there were PRF Files, WAV files, Photo files and PTX Files, some of which we had to have FINRA send us separate software to download just to access. We had to then enter a password, enter my e-mail for FINRA, enter another password, download the software to my computer and then use that software to access the document. There were also zip files we were unable to open and when I contacted FINRA, they told me I had to download a win zip file to Windows, download that to my computer, and then access the files through a separate password they had. There were different passwords to each file which we were not provided. (Hr'ng Tr 14:21-21:19) HO FitzGerald called Chris Leigh who testified regarding the production and all the different software and passwords that had to be downloaded to access the production. I again voiced my largest concern, that we were never even sent the passwords to open these documents, even if we had been able to open them, which we weren't (Hr'ng Tr 23:2-35:2). Beyn went on to explain the significant issues with the lack of production and Enforcement stated that 14 days prior to the hearing they sent an additional way to open the documents which I explained would not have done anything because without the passwords or software needed to open the files, it would be the same as sending another hard drive we could not access. (Hr'ng Tr: 35:20-44:17) I explained that it was difficult to even put together an Exhibit book being that we could not access many documents. (Hr'ng Tr. 47:21- 54:5) Further in (Hr'ng Tr.

59:8-60:22) the HO asks, if Enforcement did not produce all the confirmations for client trades, how could they prove the allegations without them and stated that the compliant against Beyn, and thereby against myself for a failure to supervise Beyn, contains specific allegations about the confirmations, what was contained in the confirmations, and presumably what customers would have been able to derive from the confirmations. Due to all these production issues HO Fitzgerald requested that DOE allow the Respondents to sit with FINRA in their offices and receive the multiple passwords and software applications necessary to open these documents on Feb 16th & 17th, 2017. This was 8-9 DAYS AFTER the hearing rather than 8 MONTHS PRIOR to the hearing which a respondent would normally have to review the documents of the case. Incredibly, it wasn't until Feb 17th, 2017, nine days AFTER the Hearing concluded, that FINRA provided a list of 11 different software applications which needed to be downloaded and a list of 53 passwords which needed to be used to open a number of the documents in production. Neither these software applications nor passwords necessary to review the document production had ever been previously provided. Respondents were given 30 days at the end of the hearing; however, I was unable to use documentation to question witnesses or impeach witness testimony regarding additional brokerage accounts and experiences, for example, during the hearing. I attempted to use documentation which would impeach witness testimony however, was told by the HO that I could not use documents which we did not choose as exhibits and show to FINRA prior (even though we did not have access to all the documentation). As a Pro Se witness I felt this put me at a severe disadvantage. Even w/ 30 days to review documents at the end of the hearing now that I had the passwords necessary, it was not enough time as there were 5 million documents in production which we would normally have eight months to review prior to the hearing – I did not want to call back witnesses as the hearing had already lasted 2 weeks and did not want to both

take more time off of work or upset the panel by putting DOE, the panel and all of the witnesses out of their way to ask additional questions. HO FitzGerald ultimately decided to move forward with the hearing but admitted that *"I had some concern with production in this case because of the volume and issues about it. But I am not prepared to stop the hearing..."* (Hr'ng Tr 58:2-59:7) Therefore, the hearing of this matter continued without my ability to review documents necessary to not only prepare for the case, but to properly defend myself.

Pg 7 of the NAC Decision (BATES #016027) states *"The record shows Enforcement complied with its obligations to produce documents in discovery and provided Taddonio and Beyn with substantial assistance in assessing those documents"*. This is absurd. Prior to the hearing, being that this was a consolidated case, all 3 of the respondents spoke regularly regarding the fact that we were unable to open many of the documents in FINRA's production. Beyn filed multiple motions to adjourn the hearing due to issues with document production, and during Pre-Hearing conferences, myself and Beyn both stated that on top of the fact that DOE's document production encompassed over five million pages of materials, the documents provided by Enforcement were not indexed, were described only by their Bates number ranges, and in some cases could not even be opened. At the bottom of the NAC Decision pg 7 it states that both respondents *"participated actively in the hearing, asking many questions of the witnesses, referring to various documents, and filing written requests"*. This has nothing to do with the fact that we were not provided with 53 passwords and 11 software's needed to open FINRA's document production until 8 days after the hearing concluded. The fact that we were able to view SOME of the document production, and participated in the hearing asking questions of witnesses, has nothing to do with whether we were provided ALL of the document production. The principle of sharing documents with defendants is a cornerstone of litigation, or any regulatory proceeding, as formally recognized In

Brady v. Maryland, 373 US 83(1963). The US Supreme 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 stating *"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 trials are fair."* (See pgs 86-87 of that decision)

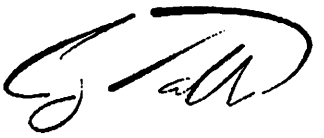
Being provided 30 days to review a massive number of documents that required 53 passwords and 11 different software applications to open, which were not provided until 8 days after the hearing concluded, in an overall document production of over 5 million pages was putting a Band-Aid on a bullet wound. I stated in my brief that although I did submit 20 additional exhibits at the end of that time period, 18 of which were accepted into the record, it was still nowhere near enough time as there were still many documents, I either never got to review or were still unable to open. The NAC Decision also very inaccurately states on the bottom of pg 7 *"the documents that respondents complain they had an insufficient opportunity to review were CSC's own documents"*. This is also completely inaccurate. Many of the documents that could not be opened would have been from the Clearing Company and FINRA as well. Many others there's no way of knowing where they were from because they couldn't be opened. The only identifier to these documents was a Bates Stamp. Furthermore, no matter where the documents were from, FINRA withheld 53 passwords and 11 software applications from the respondents until 8 days after the hearing was concluded, which they knew needed to be used to open these documents (Hr'ng Tr 18:18-21:8). The NAC Decision bottom of pg 7 also states, *"respondents have failed to identify any category of documents produced that may have assisted in their defense, but which they were denied an opportunity to introduce."* How could anyone possibly determine if a document could assist in his defense, without being able to open the document?

Without knowing what is in the multiple documents that could not be opened, there is no way of determining whether it would be helpful to my case. That's the entire point of discovery. If a respondent does not have the same opportunity the Complainant had to review ALL documents in production, prior to the hearing, the respondent never has an opportunity to identify documents that could assist in his defense and therefore is not provided a fair opportunity at defending himself. That's exactly what happened here, and for that reason the findings should be dismissed or at minimum the hearing should be remanded back to FINRA for a new hearing.

CONCLUSION

Due to the multiple reasons set forth in this brief, I respectfully request that the findings by the NAC be dismissed, reduced or at minimum the case be remanded back to FINRA for a new hearing.

Respectfully,



Craig S. Taddonio

I have relied on the word count feature of Microsoft Word in verifying that this brief contains 16,595 words, exclusive of the pages containing the table of contents, table of authorities, and any addendum that consists solely of copies of applicable cases, pertinent legislative provisions, or rules and exhibits

Respectfully submitted,

Craig S. Taddonio
[redacted]
Babylon, NY [redacted]
[redacted] – Phone
860795-8848 – Fax
[redacted]@aol.com

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	9436
RECIPIENT ADDRESS	305 694 2669
DESTINATION ID	
ST. TIME	07/10 10:59
TIME USE	11'39
PGS.	52
RESULT	OK