



SECURITIES EXCHANGE COMMISSION	
Denial of FINRA Forum for Expungement Arbitration:	
Applicant:	
Kent Vincent Pearce	
v.	FILE NO. <u>3-19228</u>
Respondent:	
Financial Industry Regulatory Authority	
APPLICATION FOR REVIEW	

On June 26, 2019, Kent Pearce, a resident of Hunt Valley, Maryland, submitted a Statement of Claim to the Financial Industry Regulatory Authority (“FINRA”) Office of Dispute Resolution requesting a hearing for the expungement of his CRD record as it relates to one customer dispute disclosure, occurrence number 1111750 (“the Occurrence”). On June 27, 2019, Mr. Pearce received notice that the Director of FINRA Office of Dispute Resolution (“the Director”) denied FINRA forum for arbitration, claiming that the Director determined that Mr. Pearce’s request for expungement of the Occurrence “is not eligible for arbitration,” citing Industry Code Rule 13203(a).¹

Industry Code Rule 13203(a) is excessively vague, and allows for an egregious amount of discretion on the part of the Director. It offers no true guidance on what is ineligible for FINRA forum and allows for many inconsistencies. In this case, the Director provides no further reason or basis for the denial other than its finding that the claim is “ineligible.”

¹ Industry Code Rule 13203(a) states that: “The Director may decline to permit the use of the FINRA arbitration forum if the Director determines that, given the purposes of FINRA and the intent of the Code, the subject matter of the dispute is inappropriate, or that accepting the matter would pose a risk to the health or safety of arbitrators, staff, or parties or their representatives. Only the Director may exercise the authority under this Rule.”

Counsel believes that the Director's arbitrary decision to deny forum *may* be based on the fact that there was a prior adverse award related to the underlying customer dispute disclosure. Seeing as Mr. Pearce's counsel has represented other associated persons in FINRA arbitration for expungement of disclosures after a prior adverse award and has succeeded on the merits, it would further reiterate the point that the Director's denial of forum in this case is unwarranted and inconsistently applied. There is no codified rule barring a request for expungement of a customer dispute disclosure arising from a prior adverse award. In fact, FINRA's Dispute Resolution Expungement Training and Exam packet states that arbitrators "*should not*" grant expungement for these types of occurrences, and does not indicate that they *shall not* be expunged. Based on Mr. Pearce's obligations to abide by FINRA Rules, he is bound to FINRA arbitration for disputes between himself and a member firm. The Director has abused its discretion by denying forum in such an inconsistent and arbitrary manner.

Mr. Pearce submits this Application for Review to the Commission requesting that he be permitted to bring his case in the forum that he is both entitled to and bound to by the FINRA Industry Code Rules. Whether the Occurrence is eligible for expungement should be determined by the arbitration panel that is assigned, in accordance with FINRA Industry Code Rules 2080 and 13805.

Dated: June 28, 2019.

Respectfully submitted,



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