

RECEIVED

OCT 23 2019

SECURITIES EXCHANGE COMMISSION	OFFICE OF THE SECRETARY
Denial of FINRA Forum for Expungement Arbitration: Applicant: Alton Theodore Davis, Jr. v. Respondent: Financial Industry Regulatory Authority	FILE NO. <u>3-19588</u>
APPLICATION FOR REVIEW	

On September 30, 2019, Alton Theodore Davis, Jr. ("Mr. Davis"), who resides at [REDACTED], Hinsdale, IL [REDACTED], 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 customer dispute occurrence number 190544 ("the Occurrence"). On October 3, 2019, counsel for Mr. Davis received notice that the Director of FINRA Office of Dispute Resolution ("the Director") denied FINRA forum for arbitration for expungement of the Occurrence. This notice provided no basis and merely cited Industry Code Rule 13203(a) which states:

- (a) 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.

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 not eligible for FINRA forum and allows for many inconsistencies.

FINRA operates and maintains the Central Registration Depository (CRD). Both registered FINRA advisers as well as Registered Investment Advisers and their Investment Advisory Representatives registered with this agency are required to maintain a CRD #. FINRA promulgated Rule 2080 to provide redress for advisers to expunge items from their CRD. This is the only available means of relief for an individual with a CRD record. Summarily denying Mr. Davis' request for arbitration violates Mr. Davis' due process rights as well as providing disparate unequal treatment for an individual with a CRD #. The Director has abused their discretion by denying forum in such an inconsistent and arbitrary manner.

The Commission has jurisdiction to review this determination by the Director of FINRA to deny Mr. Davis access to FINRA's arbitration forum. FINRA admits that the "Commission's authority to review FINRA actions is governed by § 19(d) of the Exchange Act" and that there are "four classes of actions by a self-regulatory organization ("SRO") that the Commission can review. See 15 U.S.C. § 78s(d); SEC Rule 420. The only applicable class at issue here is where an SRO "prohibits or limits any person in respect to access to services offered by such organization or member thereof." Id.

Mr. Davis 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 subsequently determined by the Panel that is assigned in arbitration, in accordance with FINRA Industry Code Rules 2080 and 1380. Alternatively, Mr. Davis requests that if his expungement request of the Occurrences is not heard by FINRA, that FINRA delete any reference to the Occurrences and be further enjoined from making any disclosure or remark on Mr. Davis' CRD report.

Dated: October 18, 2018

Respectfully submitted,



Jessica Calloway, Esq.
Of Counsel
T: (720) 815-5899
E: legal.calloway@hlbslaw.com

HLBS Law
9737 Wadsworth Pkwy, Ste. G-100
Westminster, CO 80021