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**UNITED STATES OF AMERICA  
BEFORE THE UNITED STATES SECURITIES & EXCHANGE COMMISSION**

Wilson-Davis & Co., Inc.  
(CRD no. 3777), James C. Snow  
(CRD No. 2761102), and Byron B. Barkley's  
(CRD No. 12469) Application for Review.

NAC DECISION: DECEMBER 19, 2019

FINRA HEARING PANEL DECISION: FEBRUARY  
27, 2018

FINRA COMPLAINT NO. 2012032731802

**APPLICATION FOR REVIEW**

Pursuant to Section 19(d)(2) of the Securities Exchange Act of 1934, and Rule 420 of the Commission's Rules of Practice, Wilson-Davis & Co., Inc. ("Wilson-Davis" or "the Firm"), James C. Snow ("Snow"), and Byron B. Barkley ("Barkley") (collectively "Petitioners")<sup>1</sup>, by and through their undersigned counsel, submit this application for review of the December 19, 2019 decision ("the Decision") of FINRA's National Adjudicatory Council (the "NAC") in FINRA Complaint Number 2012032731802, and such review of the NAC's Decision will include:

(1) the Decision's incorrect Findings of Fact and Conclusions of Law that Wilson-Davis' short selling activity violated Section 203(b) of Reg. SHO (and as a result violated FINRA Rule 2010) as set forth in pages 3-7 and 12-15 of the Decision (including the sub-findings of fact regarding Preventia, Inc., PM&E, Inc., China Teletech Holding, and Lot 78, Inc.), as Wilson-Davis was a bona-fide market maker and therefore exempt from the locate requirement for the identified trades in these four securities;

(2) the Decision's incorrect Findings of Fact and Conclusions of Law that Wilson-Davis, Snow, and/or Barkley failed to supervise its operations, in general, as well as its trading operations in violation of FINRA Rule 3010 and FINRA Rule 2010 as set forth in pages 3-8 and

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<sup>1</sup> Petitioners, who may be served through the undersigned, are located at 236 Main Street, Salt Lake City, Utah 84101; phone: (801) 532-1313.

16-20 of the Decision (including the findings of fact that Wilson-Davis, Barkley, and Snow failed to supervise Anthony Kerrigone's short selling and Reg. SHO compliance, Wilson-Davis and Snow failed to provide heightened supervision of a registered representative, and Wilson-Davis and Snow failed to implement a reasonable supervisory system to supervise the Firm's registered representatives and principals, as well as the conclusions of law related thereto), as Wilson-Davis, Barkley, and Snow satisfied the relevant rules and obligations in regard to supervision, heightened supervision, and written supervisory procedures;

(3) the Decision's incorrect Findings of Fact and Conclusions of Law that Wilson-Davis and Snow failed to establish and implement adequate AML policies and procedures (and to conduct adequate AML training) in violation of FINRA Rule 3310(a) and (e) and FINRA Rule 2010, and failed to detect and investigate suspicious trading activity, as set forth in pages 9-11 and 20-22 of the Decision, as Wilson-Davis and Snow satisfied the relevant rules and obligations in regard to AML policies, procedures, investigations, and training;

(4) the Decision's incorrect and unduly harsh and punitive sanctions and/or suspensions imposed upon: (a) Wilson-Davis for the alleged short sale violations (as set forth in pages 23-24 of the Decision); and (b) Wilson-Davis, Byron Barkley, and James Snow for alleged deficient supervision and AML violations (as set forth in pages 24-28 of the Decision), as even if the Commission were to uphold any finding of liability, the sanctions and suspensions should be reversed or substantially reduced because they are not in line with FINRA's sanctions guidelines and/or the Exchange Act's purposes, and the sanctions imposed are punitive and not remedial;

(5) the entirety of the order as set forth on pages 1-2 and 28 of the Decision; and

(6) the FINRA Office of Hearing Officers suffers from bias and undue influences that impacted the Hearing Panel's decision that was reviewed by NAC.

Respectfully submitted this 30th day of December 2019.

**MICHAEL BEST & FRIEDRICH, LLP**



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CERTIFICATE OF SERVICE

THE UNDERSIGNED CERTIFIES that on this 30th day of December 2019, a true and correct copy of the foregoing **APPLICATION FOR REVIEW** was filed via overnight Federal Express (signature requested) upon the following:

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