

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C.**

In the Matter of the Application of
Hugh Carleton Bandy
For Review of Disciplinary Action Taken by
FINRA
File No. 3-20160

On August 10, 2020, Hugh Carleton Bandy (“Bandy”), who resides at [REDACTED], [REDACTED], Highlands Ranch, Colorado, [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 one customer dispute disclosures, occurrence numbers 1428803 (“the Occurrence”). On **November 6, 2020**, almost a month after the Initial Pre-Hearing Conference was scheduled, counsel for Bandy 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 stated the Occurrence arises from a “prior adverse Award” and is not eligible for arbitration, citing Industry Code Rule 13203(a). However, Industry Code Rule 13203(a) does not state that occurrences arising from prior adverse Awards are ineligible for FINRA arbitration. Rather, it 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. In fact, counsel for Bandy has represented other Associated Persons in FINRA arbitration for expungement of disclosures arising from prior adverse Awards and has succeeded on the merits in at least one case. It is worth noting that FINRA did file a Partial Opposition to the Motion to Confirm Arbitration Award in that case. However, the case resulted in an Order for Confirmation of Arbitration Award, which was ordered on May 15, 2018. It is also important to note that in addition to no codified rule barring the arbitration for expungement of disclosures arising from a prior adverse Award, FINRA's Dispute Resolution Expungement Training and Exam packet states that arbitrators "should not" grant expungement for these types of occurrences. It does not state that they cannot grant expungement for these types of occurrences and it stands to reason that there would be no need for guidance on whether they should or should not be expunged from a CRD record if FINRA intended for these types of occurrences to be ineligible for FINRA forum altogether. Based on Bandy'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 their discretion by denying forum in such an inconsistent and arbitrary manner.

Bandy 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 13805.

Dated: December 4, 2020

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frances Menzer', written over a horizontal line.

Frances Menzer
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Westminster, CO 80021

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NOTICE OF APPEARANCE FOR APPLICANT

Please accept this as my notice of appearance for Applicant in the above captioned matter.

Dated: December 4, 2020



Frances Menzer
Of Counsel
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9737 Wadsworth Parkway, Suite G-100
Westminster, CO 80021

CERTIFICATE OF SERVICE

I, James Bellamy, on December 4, 2020, served the original and three copies of Mr. Bandy's Application for Review and Notice of Appearance on:

Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F St., NE
Room 10915
Washington, DC 20549-1090
Fax: 202-772-9324

[X] (BY FAX) I caused the documents to be sent to the persons at the fax number listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] (BY MAIL) I caused the documents to be sent by US Certified Mail to the persons listed above. I did not receive notice or indication from the US Postal Service that the delivery would be unsuccessful.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct.

On this date, I also caused the original and three copies of Mr. Bandy's Application for Review and Notice of Appearance on:

General Counsel
FINRA
1735 K Street, NW
Washington, DC 20006
Email: nac.casefilings@finra.org

[X] (BY FAX) I caused the documents to be sent to the persons at the fax number listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] (BY MAIL) I caused the documents to be sent by US Certified Mail to the persons listed above. I did not receive notice or indication from the US Postal Service that the delivery would be unsuccessful.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct.

/s/James Bellamy

James Bellamy

9737 Wadsworth Pkwy Suite G-100

Westminster, CO 80021