

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

In the Matter of the Application of

Shad Nhebi Clayton

For Review of Action Taken by

FINRA

Admin. Proc. No. 3-20192

**SHAD NHEBI CLAYTON'S BRIEF IN OPPOSITION TO FINRA'S
MOTION TO DISMISS THE APPLICATION FOR REVIEW AND
STAYING OF BRIEF**

Shad Nhebi Clayton





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D. Contrary to FINRA'S claim, in 2017 upon becoming aware of the

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E.

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A. The existence of multiple simultaneous events that imposed an

extended period of mental and physical duress constitutes extraordinary circumstances

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C. FINRA enforcement dept. advised applicant and Primerica that only option available would be a MC-400 filing following 10yr mark from the effective date of bar (Sept. 2011).

I. INTRODUCTION

This brief is in response to FINRA'S motion to dismiss the applicants application for review. The motion itself overlooks and is dismissive of the several crucial mitigating factors that clearly constitute the existence and validity of extraordinary circumstances which caused the applicants unfortunate situation. FINRA also either was unaware of neglected to disclose my correspondence with a senior enforcement attorney, who also stated the only option available would be a MC-400 filing following 10yr mark. However after almost 3 years of requests from myself and Primerica trying to get answers from countless FINRA departments, was kind enough to provide me with the copies of the notices sent out. it is noteworthy that I was not "TERMINATED" by definition of an act of misconduct by

Primerica. As stated in the original application for review, as an independent contractor with Primerica after an extended period of time of inactivity and failure to renew the necessary licenses they simply terminate your agent agreement. However you can return to the company up on re application at anytime as demonstrated by my return to the industry with Primerica 2017 and current status as a Independent representative. Finally it is noteworthy satisfaction of primary event (child support arrearage) that triggered state of Iowa insurance License sanction, thus spurring FINRA'S request for information was satisfied beginning in and ever since Nov. of 2011.

I. RESPONSE TO REPRESENTATIONS

- A. Repeatedly throughout the motion FINRA does not knowledge the full set of circumstances as laid out in the applicants application for review. Continuously, FINRA

references to the separation and divorce proceedings with my then a estranged and now ex wife as to imply that it is the singular basis for the applications request based on extrodanry circumstances. In the letter requesting review, I openly laid out the following facts. In addition to the divorce proceedings I was literally homeless for approximate period of 18 to 20 months. I disclosed living with friends, staying in hotels some nights even sleeping in my vehicle as to never stay in one place longer that a week as to not burden friends or family willing to help. I had no permanent residence until December of 2011, therefore even had I been of sound mind, I would have not had an address to list. Additionally, I stated that the combination homelessness, the extended period of time with inconsistent and at times total unemployment, and child custody issues because of not having a primary residence, the culmination of all the above resulted in the emergence [REDACTED]

[REDACTED]

[REDACTED] So the event of

the divorce itself I would agree is not a reason. However, anytime a person experiences a series of multiple ongoing [REDACTED] over an extended period of time that results in a [REDACTED], then is [REDACTED], had permanent place to live as well as little to no income all in the timeframe in question. I am certain that would constitute an extraordinary set of circumstances by any standard.

B. The rest of the assertions in reference to all remedies not being exhausted are of no validity considering the entire premise of the motion is based on the CRD address not being updated. Furthermore FINRA also makes unfounded and false assertions by implying intent on the part of myself to “blatantly” and “purposefully ignore FINRA’S request(s) for information and subsequent notices, The evidence contained in FINRA’S own indexed record showing the notices sent to alternate addresses were marked

undeliverable. Also, timeline of information from the state of Iowa revealing that they had sent to the CRD address as well in the same timeframe with no response. However, I had been in compliance with State of Iowa child support Recovery for 6 years. This poses an interesting question. Why if an individual was aware of a sanction would you wait 6 years to simply have the documentation sent over? Unless one was complexly unaware of it's existence. The documents from the state of Iowa submitted along with the application for review serves to reinforce that I was completely unaware of both the FINRA attempts to communicate as well as from the state of Iowa imposing it's sanction until 2017.

II. II. ARGUMENT

A. The existence of multiple simultaneous events that imposed an extended period of mental and physical duress requiring professional counsel thus constituting extraordinary

circumstances out of the applicant's control thus hindering the soundness of the applicant's mental and psychological state. This consequently would render the basis of FINRA'S motion based on the assertion that the applicant not updating CRD address leading the failure to respond as the basis for dismissal of no merit

D. Applicant and compliance department officials from Primerica were subsequently advised on more than one occasion between 2017 -present by FINRA the enforcement dept. that only option available would be a MC-400 filing following 10yr mark from the effective date of bar (Sept. 2011) causing further undue delay.

E. With consideration for all of the factors that combined to constituting the extraordinary circumstances during the time period in question, the revelation of contact with FINRA upon learning of the sanction in 2017, and subsequently being advised that I had no options available, until 2021. this inaccurate information caused further delay. I move that the FINRA motion to dismiss be denied and the hearing process move forward with respect to all the information In addition to the initial request nor

any current information is connected to any type of misconduct or violation of an ethical standard. In fact the information requested in 2011 no longer constitutes a mitigating factor. I currently hold a life insurance license in the state of Iowa Nebraska and Missouri and have passed my SIE entrance exam. Considering all of these factors it would in my eyes constitute a grave injustice to require that I wait another 7 months. Furthermore MC 400 process for individuals to associate how's little leeway for the individual and has a required \$5000 appeal fee. This would be paid for a hearing on an issue that is no longer relevant or applicable. My disqualification is not based on misconduct. FINRA 2020 sanction guidelines, Adjudicators generally should not impose a fine if an individual is barred and there is no customer loss and adjudicators generally should not impose a fine if an individual is barred and the Adjudicator has ordered restitution or disgorgement of ill-gotten gains as appropriate to remediate the misconduct.

CERTIFICATE OF SERVICE

I, Shad Clayton, certify that on February 22, 2021, I filed the opposing brief to the motion to dismiss motion by FINRA to dismiss application, Administrative Proceeding No. 3-20192, to be served by email on the following:

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Respectfully submitted,

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