

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In The Matter of:

The Application of MARATHON CAPITAL
OF ILLINOIS, LLC

For Review of Action Taken by FINRA in
Violation of the FINRA Code of Arbitration
Procedure for Industry Disputes

Admin. Proc. File No. _____

APPLICATION PURSUANT TO SECTIONS 19(d) and 19(f)
FOR REVIEW OF FINAL ACTION BY AN SRO

RIMON, P.C.

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*Attorney for Marathon Capital of
Illinois, LLC*

Dated: Albany, New York
August 25, 2021

1. Marathon Capital of Illinois, LLC, (“Marathon” or “Applicant”), by its attorney listed below, submits this application pursuant to Sections 19(d) and 19(f) of the Exchange Act (the “Act”), requesting the Commission to set aside an action of the Financial Industry Regulatory Authority (“FINRA”), a self-regulatory organization (“SRO”) subject to the supervision of the Commission.¹

2. Marathon, an investment bank subject to FINRA regulation, employed Logan Williams from July 19, 2019 through August 24, 2020, and the Statement of Claim referenced herein arose from that period of employment. In its written decision dated July 26, 2021 (*FINRA Dispute Resolution Services Arbitration Number 21-01838*), FINRA declined to accept a Statement of Claim filed by the attorney for Logan Williams against Marathon and others, stating only that it was not “eligible for arbitration” under the FINRA Code of Arbitration Procedure for Industry Disputes (“Code”) Rule “12203(a) or 13203(a).”²

3. Section 19(d) of the Exchange Act expressly provides that if an SRO "prohibits or limits any person in respect to access to services offered by such" SRO, the Commission shall review such action "upon application by any person aggrieved" by such action. 15 U.S.C. § 78s(d)(1), (2). Marathon is a person aggrieved by the challenged SRO conduct because FINRA’s action denied it access to the FINRA arbitration services to which both Logan Williams and Marathon agreed before, and after, the disputes between them arose.

4. FINRA’s decision was *ultra vires*. It contains no indication that the decision was

¹ A copy of the decision is attached hereto as Exhibit A. Marathon is not aware whether Notice of this decision has been filed with the Commission and has not received any copy of it from FINRA or the Commission.

² Rule 12203(a) applies only to disputes involving customers and is accordingly irrelevant to this decision concerning an employer subject to FINRA regulation, and its former employee.

approved, ratified, or ever seen by FINRA’s Director of Dispute Resolution Services. FINRA Rule 13203(a), however, provides that “Only the Director may exercise the authority under this Rule.”

5. Even if the Director did make the decision, that decision was in violation of FINRA’s own Code. On information and belief, the Statement of Claim that was the subject of FINRA’s decision included claims of employment discrimination, including sexual harassment. Under FINRA Rule 13201(a), such claims are eligible for arbitration, where the parties have agreed to arbitrate them. Marathon and Logan Williams agreed to arbitrate these claims *both* before *and* after the dispute between them arose. The employment agreement between Williams and Marathon dated July 9, 2019, Paragraph 13, provides:

Any controversy, claim or dispute arising out of or relating to this Agreement or the employment relationship... shall be settled by arbitration . . . and shall be conducted under the then prevailing rules of FINRA under the FINRA Code of Arbitration Procedure for Industry Disputes.

Accordingly, the Parties agreed *prior* to the dispute between them having arisen, that arbitration cover any disputes relating to the employment relationship.³ *After* the dispute arose, Logan Williams’ act of filing a statement of claim with FINRA, together with this Application, affirms the agreement to arbitrate as between Williams and Marathon.

For the above reasons, the Commission should set aside the action of FINRA in the July 26, 2021 decision, require FINRA to accept the Statement of Claim filed by Logan Williams, and allow Marathon to access to arbitrate its disputes with Williams pursuant to applicable provisions of the Code.

³ Such provisions are recognized to include statutory claims, *See, Zoller v. GCA Advisors et al.*, 993 F.3d 1198, 1203-04 (9th Cir, April 14, 2021); *Gilmer v. Interstate /Johnson Lane Corp.*, 500 U.S. 20, 26 (1991).

Respectfully submitted;

RIMON, P.C.

/s/ Bernays T. Barclay

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Illinois, LLC*

Dated: August 25, 2021

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1. Exhibit A: FINRA decision dated July 26, 2021 (*FINRA Dispute Resolution Services Arbitration Number 21-01838*)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on the SEC Office of the Secretary via the eFAP electronic filing system, and on FINRA via the email address provided on their determination of April 30, 2020:

c/o Inge Alves, Senior Case Specialist - Neprocessingcenter@finra.org

/s/ Bernays T. Barclay

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EXHIBIT A to
APPLICATION PURSUANT TO SECTIONS 19(d) and 19(f)
FOR REVIEW OF FINAL ACTION BY AN SRO

FINRA decision dated July 26, 2021 (*FINRA Dispute Resolution*
Services Arbitration Number 21-01838)

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Attorney for Marathon Capital of
Illinois, LLC

Dated: Albany, New York
August 25, 2021



TO: Michael J. Willemin
From: Inge Alves
Senior Case Specialist
Subject: FINRA Dispute Resolution Services Arbitration Number 21-01838
Logan Williams vs. Philippe Lavertu, Ted Brandt, Chuck Hinckley, and Marathon
Capital Of Illinois, LLC
Date: July 26, 2021

FINRA has determined that the claims you have alleged in your statement of claim are not eligible for arbitration. Therefore, pursuant to the Customer Code Rule 12203(a) or Industry Code Rule 13203(a), we decline to accept your claim.

Accordingly, we closed this case without prejudice and processed a refund of your filing fees. Refunds will be sent under separate cover.

If you have any questions, please do not hesitate to contact me at 212-858-4056 or by email at Neprocessingcenter@finra.org.

IBK:wa:LC53W
idr: 04/30/2020

RECIPIENTS:
Michael J. Willemin, Wigdor LLP, 85 Fifth Avenue, Floor 5, New York, NY 10003
On Behalf Of: Logan Williams