

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

In the Matter of the Application of
Richard Thomas Iannacone
For Review of Action Taken By
FINRA
File No. 3-20621

FIRST AMENDED APPLICATION FOR REVIEW

This is a First Amended Application for Review to correct the record in response to the Security and Exchange Commission’s (the “Commission”) scheduling order dated November 8, 2021. On September 27, 2021, Mr. Richard Thomas Iannacone (“Iannacone”), submitted a Statement of Claim (“SOC”) to the Financial Industry Regulatory Authority (“FINRA”) Office of Dispute Resolution requesting a hearing for the expungement of one disclosure, Occurrence Number 38779 (“the Occurrence”) from his Central Registration Depository (“CRD”) record.

On September 28, 2021, counsel for Mr. Iannacone received notice from a senior case specialist with FINRA that the FINRA Office of Dispute Resolution denied Mr. Iannacone access to the FINRA forum for an arbitration proceeding on the expungement of the Occurrence. The notice stated that, “This matter is ineligible for expungement from CRD because an adverse award against Claimant was rendered, and Claimant was held liable for damages to the customer.” The senior case specialist further stated that the liability finding by a prior arbitrator or arbitration panel precludes a subsequent arbitrator from making one of the required findings under FINRA Rule 2080(b)(1). The senior case specialist stated in the notice that pursuant to Customer Code Rule 12203(a) or Industry Code Rule 13203(a), FINRA declined to accept

the claims. Industry Code Rule 13203(a) does not provide for forum denial in this situation, nor did FINRA provide accurate reasoning for its denial. The Rule states:

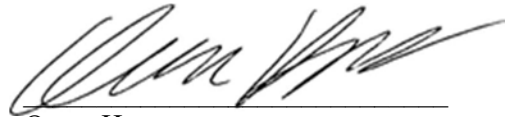
- (a) The Director may decline to permit the use of the FINRA arbitration forum if the Director determines that, given the purposes of FINRA and the intent of the Code, the subject matter of the dispute is inappropriate, or that accepting the matter would pose a risk to the health or safety of arbitrators, staff, or parties or their representatives. Only the Director may exercise the authority under this Rule.

Rule 13203(a) is excessively vague and allows for an egregious amount of discretion on the part of the Director of Dispute Resolution. It offers no true guidance on what is “inappropriate” for FINRA arbitration and allows for many inconsistencies. The Commission has jurisdiction to review this case, as FINRA prohibited Mr. Iannacone’s access to a fundamentally important service that it offers. *See Consolidated Arbitration Applications, Exchange Act Release No. 89495, 2019 WL 6287506 (August 6, 2020)*. In the Commission’s scheduling order dated November 8, 2021, it addresses that the underlying customer dispute ended in settlement referencing the SOC. The SOC referenced the Broker comment on BrokerCheck which states that “Respondent settled with Ms. Sullivan for \$16, 415.26.” This assertion was made in error and BrokerCheck properly reports this disclosure as an Award Judgement. The broker comment refers to a different settlement in error. Counsel for Mr. Iannacone requests that the Commission move forward with Consolidation of Mr. Iannacone’s Application for Review.

Mr. Iannacone submits this Application for Review to the Commission requesting that he be permitted to bring his case in the forum to which he is both entitled and bound 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: November 17, 2021

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Owen Harnett", written over a horizontal line.

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CERTIFICATE OF SERVICE

I, James Bellamy, certify that on November 17, 2021, I caused a copy of the foregoing First Amended Application for Review in the Matter of the Application for Review of Richard Thomas Iannacone, Administrative Proceeding File No. 3-20621 to be filed through the SEC's eFAP system and served by electronic mail on:

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[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
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