

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

In the Matter of the Application of

Alice Jean Solomon

File No. 3-20631

and

In the Matter of the Application of

Consolidated Arbitration Applications

File Nos. 3-18616, 3-18617, 3-18877, 3-18879, 3-18883, 3-18910, 3-18919,
3-18934, 3-18988, 3-19013, 3-19016, 3-19017, 3-19219, 3-19228, 3-19405, 3-19573,
3-19574, 3-19611, 3-20160, 3-20205, 3-20467, 3-20499

FINRA'S MOTION TO CONSOLIDATE AND POSTPONE BRIEFING

I. INTRODUCTION

On October 20, 2021, Alice Jean Solomon filed an application for review with the Commission. Solomon seeks review of a determination by the Director of FINRA Dispute Resolution Services that her request to expunge a customer arbitration award from FINRA's Central Registration Depository ("CRD[®]") is not eligible for arbitration. Solomon's appeal presents the same fact pattern, and same legal issues, as numerous appeals previously consolidated by the Commission that have been fully briefed. Consequently, FINRA requests that the Commission consolidate Solomon's appeal with

those appeals and postpone briefing in this matter pending resolution of the consolidated appeals. Counsel for Solomon does not oppose FINRA’s motion.¹

II. BACKGROUND

A. Solomon

Solomon entered the securities industry in 1989. RP² at 32. Between 2003 and 2006, she associated with and was a co-owner of Greenwich Global, LLC (“Greenwich”), a former member firm. RP 10, 34. Solomon last associated with a member firm in 2008, and she is currently registered as an investment advisor. RP 25.³

B. Procedural Background

In October 2008, several of Solomon’s customers filed an arbitration claim with FINRA against her and another Greenwich co-owner. RP 1, 10. The customers alleged that Solomon and the other Greenwich co-owner engaged in fraudulent misrepresentation, conversion, and breach of fiduciary duty with respect to investments in private placement securities. RP 1, 53. Aided by counsel, Solomon denied the allegations and asserted a crossclaim and counterclaim. RP 1-2. After conducting a two-

¹ Solomon’s counsel and other attorneys associated with the same firm represent the majority of the applicants in the Consolidated Arbitration Applications. Applicants Cuenca and Sullivan have other counsel, who has advised that he does not oppose this motion.

² “RP __” refers to the page number in the certified record filed on November 3, 2021.

³ See Securities and Exchange Commission, “Investment Advisor Public Disclosure,” “Investment Advisor Public Disclosure Report for Alice Solomon,” at 3, *available at*: https://reports.adviserinfo.sec.gov/reports/individual/individual_1789872.pdf (last visited November 2, 2021).

day hearing, a FINRA arbitration panel entered an October 28, 2009 award (“Customer Award”) finding the customers were entitled to recover damages of \$70,000, for which Solomon was solely liable.⁴ RP 2-4, 54. The panel denied Solomon’s crossclaim and counterclaim.⁵ RP 3.

On September 24, 2021, Solomon filed a statement of claim with FINRA Dispute Resolution Services, in which she sought expungement of the Customer Award from CRD and BrokerCheck. RP 9-16. On September 30, 2021, FINRA Dispute Resolution Services notified Solomon that her request to expunge the Customer Award from CRD “is ineligible for expungement [] because an adverse award [] was rendered,” and Solomon “was held liable for damages to the customer.” RP 17. The notice further explained that the Commission “has approved three narrowly crafted grounds in FINRA Rule 2080(b)(1) for recommending expungement in FINRA’s arbitration forum” and that “[a] liability finding by a prior arbitrator or arbitration panel precludes a subsequent arbitrator from making one of the required findings” under the rule. *Id.* Accordingly, the Director denied Solomon the use of FINRA’s arbitration forum. *Id.* (citing FINRA Rules 12203 & 13203). On October 20, 2021, Solomon filed the present application for review of FINRA’s denial of the arbitration forum. RP 19-21.

⁴ The FINRA case number for this matter is “08-03717.” RP 1, 52. This case is referenced in CRD as “Occurrence # 1489114.” RP 53-54.

⁵ The arbitration panel denied the customers’ claims against the other Greenwich co-owner. RP 3. The panel also reduced the Customer Award to \$45,000 because Solomon paid the customers the equivalent of \$25,000. RP 2, 34.

C. Consolidated Arbitration Appeals

The Commission previously consolidated numerous applications for review (the “Consolidated Arbitration Appeals”) presenting the same fact pattern and legal issues presented by Solomon in this appeal. *See Consol. Arb. Applications*, Exchange Act Release No. 89495, 2020 SEC LEXIS 3312 (Aug. 6, 2020).⁶ The parties in the Consolidated Arbitration Appeals have fully briefed the merits of those appeals.

III. ARGUMENT

Solomon’s appeal presents the same fact pattern, and raises the same legal issues, as the Consolidated Arbitration Appeals. The parties have already fully briefed the issues in the Consolidated Arbitration Appeals, and Solomon’s counsel has indicated that he does not oppose consolidation of his appeal with the Consolidated Arbitration Appeals and postponing briefing in this matter. Accordingly, for the reasons set forth herein, the Commission should consolidate this matter with the Consolidated Arbitration Appeals and postpone briefing.

Commission Rule of Practice 201(a) provides that the Commission may consolidate “proceedings involving a common question of law or fact . . . for hearing of any or all matters at issue in such proceedings.” 17 C.F.R. § 201.201(a). Consolidation is appropriate under the rule because this appeal shares a common fact pattern and

⁶ The Commission initially consolidated the Consolidated Arbitration Appeals to determine whether it had jurisdiction to review them. After determining that it had jurisdiction, the Commission found that the proceeding should continue to be consolidated for purposes of briefing the merits. *Consol. Arb. Applications*, 2020 SEC LEXIS 3312, at *6-8.

questions of law as presented in the Consolidated Arbitration Appeals. Like the applicants in those cases, Solomon filed an arbitration claim for expungement of a customer dispute in which there had been an adverse arbitration award.⁷ After FINRA notified her that adverse arbitration awards are inappropriate for an expungement arbitration, she sought Commission review of that decision. Further, like many of applicants in the Consolidated Arbitration Appeals, Solomon is represented by counsel associated with the law firm HLBS Law. *See* RP 21.

Commission Rule of Practice 161(a) authorizes the Commission to order postponement for “good cause shown.” 17 C.F.R. § 201.161(a). Rule of Practice 161(b) sets forth the factors the Commission must consider in determining whether to grant a postponement, including: (1) the length of the proceeding to date; (2) the number of previous postponements granted; (3) the stage of the proceedings at the time of the request for postponement; and (4) any other such matters as justice may require. 17 C.F.R. § 201.161(b).

These factors favor postponement here. Solomon’s appeal was filed two weeks ago, and there have been no previous postponements. Moreover, consolidating this appeal with the Consolidated Arbitration Appeals would promote administrative efficiency and avoid the need for the parties to file briefs which repeat the same arguments. Accordingly, the Commission should grant FINRA’s unopposed motion to

⁷ In her statement of claim, Solomon asserted that the dispute underlying the customer award was more akin to a contractual dispute between business partners than a customer dispute. RP 14-15. Nevertheless, consolidation is appropriate because the award was entered as a customer award and Solomon argues that her expungement claim is governed by FINRA Rule 2080, which addresses the expungement of “customer dispute information.” RP 1, 13-15, 20, 53; FINRA Rule 2080.

consolidate Solomon's appeal with the Consolidated Arbitration Appeals and postpone briefing.

Respectfully submitted,

/s/ Ashley Martin

Ashley Martin
Assistant General Counsel
FINRA
1735 K Street, NW
Washington, DC 20006
(202) 728-8207
ashley.martin@finra.org
nac.casefilings@finra.org

November 3, 2021

CERTIFICATE OF SERVICE

I, Ashley Martin, certify that on this 3rd day of November 2021, I caused a copy of the foregoing Unopposed Motion to Consolidate and Postpone Briefing, In the Matter of the Application of Alice Jean Solomon, Administrative Proceeding File No. 3-20631, to be filed through the SEC's eFAP system on:

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

and served by electronic mail on:

Owen Harnett, Esq.
HLBS Law
9737 Wadsworth Parkway, Suite G-100
Westminster, CO 80021
legal.harnett@hlbslaw.com
owen.harnett@hlbslaw.com

Counsel for Iannacone, Rosenthal, Kaplow, Cole, Jackson, Mosely, Wetzel, Ramsay, Wojnowski, Rottler, Gordinier, Waring, Pearce, Rossi, Murphy, Shuman, Davis, Luken, Bandy, Gaskill, Kurchner, and Hanlon

Frank Sommers
227 Princeton Ave.
Mill Valley, CA 94941
ffs@sommerslawpc.com
Counsel for Sullivan and Cuenca

/s/ Ashley Martin
Ashley Martin
Assistant General Counsel
FINRA
1735 K Street, NW
Washington, DC 20006
(202) 728-8207
ashley.martin@finra.org
nac.casefilings@finra.org

CERTIFICATE OF COMPLIANCE

I, Ashley Martin, certify that this motion complies with the Commission’s Rules of Practice because it omits or redacts any sensitive personal information described in Rule of Practice 151(e).

I, Ashley Martin, further certify that this motion complies with the Commission’s Rules of Practice because it does not exceed 7,000 words. I have relied on the word count feature of Microsoft Word in verifying that this motion contains 1,192 words.

/s/ Ashley Martin _____

Ashley Martin
Assistant General Counsel
FINRA
1735 K Street, NW
Washington, DC 20006
(202) 728-8207
ashley.martin@finra.org
nac.casefilings@finra.org