

U.S. SECURITIES & EXCHANGE COMMISSION

In the Matter of the Appeal of

DEPARTMENT OF ENFORCEMENT

Complainant,

**MOTION FOR STAY
OF NAC Decision in
Complaint No. 2018056848101
Thomas Lee Johnson**

vs.

THOMAS LEE JOHNSON

Respondent.

**DATE OF SERVICE
November 2, 2021**

ORAL ARGUMENT REQUESTED

Mr. Thomas L. Johnson (“Mr. Johnson” or “Appellant”), by his undersigned counsel and pursuant to 17 C.F.R §§ 201.154, 201.401, and 240.19d-2, hereby moves in conjunction with his Notice of Appeal that the U.S. Securities and Exchange Commission stay the bar and sanctions imposed by the National Adjudicatory Council (“NAC”) of the Financial Industry Regulatory Authority (“FINRA”) with regard to Complaint No. 2018056848101 which was issued on October 6, 2021.

In his Appeal, Appellant raises meaningful and substantive challenges to the proceedings and to the appropriateness of the sanctions imposed. *See* Notice of Appeal. Appellant will suffer tremendous and irreparable harm should the bar be enforced pending the Commission review.

Mr. Johnson is the Chief Compliance Officer of Royal Capital Wealth Management, LLC. As a result of the NAC’s affirmation of the hearing panel’s imposition of a bar against Mr. Johnson, he will have to vacate that role. Enforcement of the bar pending Commission review, and its warranted reversal, subjects Appellant to irreparable damage and hardship which cannot be recovered or compensated thereafter.

In support of Appellant’s request from a stay, Appellant notes that there is no evidence of harm or risk to investor if the stay is granted. Mr. Johnson has no prior disciplinary record and there was no evidence presented in this case of actual harm to any investor. Mr. Johnson has every incentive to observe high standard of commercial honor, and to practice just and equitable principles of trade during the pendency of the proceedings and at all times in the future. The absence of harm to the Commission, FINRA, or investor weighs in favor of a stay.

Moreover, FINRA sanctions must be remedial and designed to prevent future harm, and not be punitive in nature. Where this matter does not concern any customer harm by Appellant, and Appellant is well-aware of and compliant with his regulatory obligations, irreparable harm imposed by the imposition of a bar can only be punitive.

Appellant also notes that a stay is warranted even if a lesser suspension is later imposed after review because of the months' long review process. Sanctions are required to be remedial and for the purpose of preventing the recurrence of misconduct. *See* General Principles Applicable to All Sanctions Determinations #3, Guidelines at 3. Here, the bar imposed is at a minimum excessive and therefore punitive in a case where there is no threat of future violation justifying the excessive bar. Thus, even if the Commission were to impose sanctions closer in line with Appellant's actual actions, the months of delay in issuing a decision could exceed the duration of the sanction then imposed. Barring Appellant for several months or years pending review to then impose a suspension shorter in time would cause Appellant irreparable harm which cannot be recovered or remedied.

The interests of justice accordingly weigh in favor of a stay, particularly where, in fact, the existence of the opportunity to request a stay is a safeguard against the wrongful imposition of an improper penalty. *See Hill v. SEC*, 825 F.3d 1236, 1247 (11th Cir. 2016) (citing 17 C.F.R. § 201.401 and stating the opportunity to obtain a stay makes it entirely possible that "respondents will suffer no deprivation before receiving judicial review"). For these reasons, Appellant respectfully requests a stay pending action by the Commission given the bar is otherwise effective in the absence of a stay pending review.

Dated: November 2, 2021

Respectfully submitted,

/s/Jon-Jorge Aras
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