

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

In the Matter of the Application of
Neil Joseph Gagnon
for Review of Action Taken by
FINRA
File No. _____

APPLICATION FOR REVIEW

On March 7, 2022, Mr. Neil Joseph Gagnon (“Mr. Gagnon”), a resident of New York, New York, submitted a Statement of Claim to the Financial Industry Regulatory Authority, Inc. (“FINRA”) Office of Dispute Resolution requesting a hearing for the expungement of two disclosures, Occurrence Numbers 663977 and 663974 (the “Occurrences”), from his Central Registration Depository (CRD) record. This case was assigned FINRA Case No. 22-00477.

On March 9, 2022, Mr. Gagnon’s Counsel received notice from Samantha T. Denny, Senior Case Specialist, that FINRA’s Office of Dispute Resolution denied Mr. Gagnon access to FINRA’s arbitration forum (the “Notice”). The Notice stated that Mr. Gagnon’s claims were “ineligible for expungement from CRD because an adverse award against Claimant was rendered, and Claimant was held liable for damages to the customer.” The Notice also stated that, pursuant to FINRA Rules 12203 or 13203, the FINRA “Director denies the use of the forum...because the subject matter of the dispute is inappropriate.”

The Commission has jurisdiction to review this case, as FINRA prohibited Mr. Gagnon from accessing a fundamentally important service that FINRA offers. *See*, Consolidated Arbitration Applications, Exchange Act Release No. 89495, 2019 WL 6287506 (August 6, 2020).

FINRA Rule 13203(a) does not provide for forum denial in this situation. FINRA Rule 13203(a) simply states,

[t]he 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.

FINRA Rule 13203(a) is vague and ambiguous. It offers no true guidance to FINRA Associated Persons as to what is and is not eligible subject matter for FINRA's forum. In particular, FINRA Rule 13203(a) does not describe whether a claim for expungement can be denied because an adverse award against a claimant was previously rendered, or, similarly, because a claimant was held liable for damages to the customer. FINRA has failed to provide Mr. Gagnon access to a fundamentally important service it offers without providing a valid reason that aligns with Rule 13203(a). Based on Mr. Gagnon's obligations to abide by FINRA Rules, he is bound to FINRA arbitration for disputes between himself and a Member Firm. FINRA has abused its discretion by denying forum in such an inconsistent and arbitrary manner.

Mr. Gagnon submits this Application for Review to the Commission requesting that he be permitted to bring his claim for expungement in FINRA's forum, as he is entitled to pursuant to FINRA rules. Whether Mr. Gagnon is able to obtain expungement of the Occurrences is a matter that has yet to be determined by a Panel in accordance with FINRA Rules 2080 and 13805.

Dated: April 7, 2022

Respectfully submitted,



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