

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC**

In the Matter of the Application for Review of

James Kirby Merrill

File No. 3-_____

**FINRA'S REQUEST FOR AN EXTENSION OF TIME
TO FILE THE CERTIFIED RECORD**

Alan Lawhead
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August 17, 2022

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC**

In the Matter of the Application for Review of

James Kirby Merrill

File No. 3-_____ ¹

**FINRA’S REQUEST FOR AN EXTENSION OF TIME
TO FILE THE CERTIFIED RECORD**

Pursuant to Rule of Practice 161, FINRA respectfully requests a 14-day extension of time to file the certified record in this matter. While the Applicant’s notice of appeal is dated August 3, 2022, FINRA did not process the notice, which was sent by first-class mail, until Monday, August 15, 2022. FINRA requires additional time to collect and compile a complete record of the documents relating to Applicant’s bar pursuant to FINRA Rule 9552(h).

Rule of Practice 161(a) provides that the Commission “may, for good cause shown, extend or shorten any time limits prescribed by these Rules of Practice for the filing of any papers[.]” 17 C.F.R. § 201.161(a) (2020). The relevant factors the Commission must consider in determining whether to grant an extension of time are (1) the length of the proceeding to date; (2) the number of postponements, adjournments, or extensions already granted; (3) the stage of the proceedings at the time of the request; and (4) any other such matters as justice may require. *See Dakota Sec. Int’l*, Exchange Act Release No. 83139, 2018 SEC LEXIS 1019, at *2 (May 1, 2018); 17 C.F.R. 201.161(b). Moreover, as the Commission stated in Exchange Act Release No.

¹ FINRA has not received a Commission file number yet. We will refile this motion with the file number once one is assigned.

88415, issued March 18, 2020, “all reasonable requests for extensions of time will not be disfavored as stated in Rule 161.”

Good cause exists to grant FINRA’s request for an extension. Due to circumstances presented by coronavirus 2019 (COVID-19), nearly all of FINRA’s employees are working remotely. Accordingly, Applicant’s notice of appeal, which was sent by first-class mail, was not processed until August 15, 2022, when staff was in the office to check mail.²

The relevant factors articulated in Rule 161 weigh in favor of granting FINRA’s motion. First, this proceeding is, at most, two weeks old, in its early stages, and no acknowledgement letter or briefing schedule has been issued by the Commission. Second, FINRA has not requested any prior postponements, adjournments, or extensions of time in this matter. Finally, granting FINRA’s request will not delay unduly the Commission’s review of Applicant’s application or prejudice him.

FINRA therefore requests that the Commission grant it 14 calendar days to file the certified record, which would make the record due on August 30, 2022.

Respectfully submitted,

/s/ Celia Passaro
Celia Passaro
Associate General Counsel
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(202) 728-8985

August 17, 2022

² The postmark on Applicant’s notice is partially illegible and, accordingly, it is unclear exactly when it was mailed apart from it being sometime in August 2022.

CERTIFICATE OF SERVICE

I, Celia Passaro, certify that on this 17th day of August 2022, I caused FINRA's Request for an Extension of Time to File the Certified Record, in the matter of the Application for Review of James Kirby Merrill, Administrative Proceeding No. 3-____, to be filed through the SEC's eFAP system on and a copy of FINRA's Request for an Extension of Time to File the Certified Record to be served by electronic service on:

James K. Merrill

[REDACTED]
[REDACTED]
[REDACTED]

Respectfully submitted,

/s/ Celia Passaro
Celia Passaro
Associate General Counsel
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1735 K Street, NW
Washington, DC 20006
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CERTIFICATE OF COMPLIANCE

I, Celia Passaro, certify that this FINRA's Request for an Extension of Time to File the Certified Record complies with the Commission's Rules of Practice by omitting or redacting any sensitive personal information described in Rule of Practice 151(e).

Respectfully submitted,

/s/ Celia Passaro

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