

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

In the Matter of the Application of
Marc Jacob Jacobson
For Review of Disciplinary Action Taken by
FINRA
File No. _____

On or about April 28, 2023, Mr. Marc Jacob Jacobson (“Mr. Jacobson”), a resident of Glencoe, Illinois, submitted a Statement of Claim to the Financial Industry Regulatory Authority (“FINRA”) Office of Dispute Resolution requesting a hearing for the expungement of his CRD record as it relates to the following customer dispute disclosures, occurrence numbers 1223851, 1400707, 1456372, 1466775, 1505682, 1853700, and 1880518 (together, the “Occurrences”). Mr. Jacobson was assigned FINRA Case Number 23-01173. On May 30, 2023, counsel for Mr. Jacobson received notice that FINRA denied Mr. Jacobson access to FINRA’s arbitration forum.

The notice was issued by Richard Berry, Executive Vice President and Director of FINRA Dispute Resolution Services with FINRA, stating that “The Director determined the request for expungement of the Occurrences from the Central Registration Depository (“CRD”) is inappropriate for consideration in FINRA’s arbitration forum” and that “FINRA rules do not contemplate allowing a claimant to pursue expungement in FINRA’s arbitration forum while seeking equitable relief for expungement in a court of competent jurisdiction.” (the “Denial Notice”).

The Customer Code Rule 12203(a) and the Industry Code Rule 13203(a)¹ both state:

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. It offers no true guidance on what is “inappropriate” for FINRA arbitration and allows for many inconsistencies. Further, and most importantly, FINRA did not cite to any FINRA rule, SEC order, or provision of the Exchange Act that permits FINRA to deny forum access merely because the claimant has preserved his rights to an appeal in a different jurisdiction, nor did FINRA provide reasons why accepting the matter would pose a risk to the health or safety of arbitrators, staff, or parties or their representatives. FINRA has failed to provide Mr. Jacobson access to this fundamentally important service without providing a valid reason that aligns with Rule 13203(a). Based on Mr. Jacobson’s obligations to abide by FINRA Rules, he is bound to FINRA arbitration for disputes between himself and a Member Firm. The Director has abused its discretion by denying forum in such an inconsistent and arbitrary manner.

Mr. Jacobson submits this Application for Review to the Commission requesting that he be permitted to bring his case in the forum that he is both entitled to and bound to by the FINRA Industry Code Rules. Whether the Occurrences are eligible for expungement should be subsequently determined by a neutral arbitrator that is assigned in arbitration, in accordance with FINRA Industry Code Rules 2080 and 13805.

¹ Because Rules 12203(a) and 13203(a) contain identical language, for purposes of simplicity, they will be herein individually and collectively referred to as “Rule 13203(a).”

Dated: June 29, 2023

Respectfully submitted,

HLBS LAW

/s/ Chelsea Bauer

Chelsea Bauer

T: (720) 466-3505

E: chelsea.bauer@hlbslaw.com

9737 Wadsworth Pkwy, G-100

Westminster, CO 80021

Counsel for Applicant, Mr. Jacobson