

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

In the Matter of the Application of

Mark Kipling Durham

For Review of Action Taken By

FINRA

File No. 24-01276

Case No. 3-21981

MARK DURHAM’S MOTION FOR UNOPPOSED EXTENSION OF TIME

Pursuant to Rule of Practice 161, Mark Kipling Durham (“Mr. Durham”), by and through undersigned counsel, requests an extension of time to file his Brief in Support of Application for Review. In support thereof, Mr. Durham states as follows:

BACKGROUND

On June 10, 2024, Mr. Durham filed with FINRA for an expungement of a regulatory disclosure numbered Occurrence Number 6228 on his CRD and BrokerCheck profiles. On June 12, 2024, FINRA responded, denying Forum for hearing the expungement case, stating that it had mechanisms to implement the disclosure, but that its rules did not contemplate expungement of this type of disclosure.

On July 11, 2024, Mr. Durham filed an appeal with the SEC challenging FINRA’s Denial of Forum to hear this claim for expungement. On September 3 of 2024, the SEC issued an order stating that Mr. Durham shall file a brief in support of his Application for Review by October 3, 2024.

ARGUMENT

Due to the complexity of the claims at issue, Mr. Durham requests a two-week extension to file the requested brief. Counsel for Mr. Durham has already conferred with Counsel for FINRA and Counsel for FINRA has agreed to the two-week extension. According to Rule of Practice 161, the five relevant factors listed with respect to the consideration of extensions 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;
4. The impact of the request on the hearing officer's ability to complete the proceeding in the time specified by the Commission; and
5. Any other such matter as justice requires.

With respect to the length of the proceedings to date, this appeal was filed on July 11, 2024. The relevant order for briefing on the matter was filed on September 3, 2024. As such, the length of this proceeding is still well within a reasonable time limit given the complexity of issues involved in the case.

Regarding the second factor, no prior extension, postponement, or adjournment has been requested or granted in this appeal. As such, it would be appropriate to grant one in the present instance.

With respect to the stage of the proceedings, the appeal is still in its early stages. The initial FINRA case has been heard, but the arguments regarding the appeal are still being laid by both parties. Opposing Counsel has yet to file their brief in support of their position. As such, the

stage is early enough that this request for extension will have minimal impact on the timeline of the case.


Given the early stage of this request for extension, any impact is expected to be minimal. As such, the hearing officer's ability to complete the proceeding in the time specified by the Commission is not expected to be unreasonably extended.

Additionally, Appellant requires a full expounding of complex arguments, some of which are based on recent Supreme Court cases. As such, justice requires that Appellant be granted additional time to ensure that these arguments are stated fully and accurately.


CONCLUSION

WHEREFORE Mr. Durham requests an unopposed two-week extension until the date of October 17, 2024, to file his Brief in Support of his Application for Review.

RESPECTFULLY REQUESTED this October 2, 2024.



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CERTIFICATE OF SERVICE

I, Peter Lindholm, certify that on this 2nd day of October, 2024, I caused the original copy of **MARK DURHAM'S MOTION FOR UNOPPOSED EXTENSION OF TIME** to be served on:

Ms. Celia Passaro
EMAIL: ersilia.passaro@finra.org
Associate General Counsel
FINRA

[X] (BY EMAIL) I caused the documents to be sent to the persons at the e-mail address listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct.



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