

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

In the Matter of the Application of

John F. Mangan

For Review of Action

Taken by

FINRA

File No. 3-22478

**FINRA'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS JOHN F. MANGAN'S  
APPLICATION FOR REVIEW AND TO STAY BRIEFING**

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June 20, 2025

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**I. INTRODUCTION**

Pursuant to SEC Rule of Practice 154, the Financial Industry Regulatory Authority (“FINRA”) replies to Applicant John F. Mangan’s opposition to FINRA’s motion to dismiss for lack of jurisdiction. FINRA and Mangan agree on one thing—Mangan is appealing FINRA’s May 2025 letter denying his Petition to vacate his 2005 Letter of Acceptance Waiver, and Consent (“AWC”).<sup>1</sup> However, contrary to the arguments outlined in Mangan’s opposition, and as FINRA explained in its motion to dismiss, the Commission does not have jurisdiction to consider this appeal under Section 19(d) of the Securities Exchange Act of 1934 (the “Exchange

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<sup>1</sup> FINRA’s arguments in its motion to dismiss that Mangan waived his right to appeal the AWC and that any appeal of the AWC is untimely were made out of an abundance of caution in the event Mangan or the Commission treated the AWC itself as being appealed, which was not clear from Mangan’s application for review.

Act”). The case law relied on by FINRA fully supports its position that Mangan is attempting an impermissible collateral attack on a disciplinary settlement that Mangan agreed to—and his application for review should be dismissed.

## **II. ARGUMENT**

Mangan’s opposition attempts to circumvent statutory limits on the Commission’s jurisdiction by painting himself as a long-suffering victim who is entitled to relief from a settlement he voluntarily entered into and waivers he voluntarily made. Because the precedent clearly shows that the Commission lacks jurisdiction, the Commission should dismiss Mangan’s application for review.

### **A. The Commission Lacks Jurisdiction Over Mangan’s Appeal**

Mangan’s appeal does not involve any of the bases for jurisdiction under Section 19(d) of the Exchange Act, and the Commission should dismiss this appeal. There is no final disciplinary sanction, bar, prohibition or limitation of access to FINRA services, or denial of membership that Mangan seeks to appeal.<sup>2</sup> *See Matthew Brian Proman*, Exchange Act Release No. 57740, 2008

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<sup>2</sup> Mangan maintains that FINRA’s letter denying his Petition denied him membership, barred him from associating with a member, and prohibited and limited his access to FINRA’s disciplinary program. Mangan’s Opposition to FINRA’s Motion to Dismiss (“Opp”) at 9-10. As discussed in FINRA’s motion and herein, the AWC, not FINRA’s denial letter, barred Mangan and denied him membership. And with respect to his argument that the denial letter limits his access to FINRA’s services, Mangan expressly waived his access to such services. Mangan could have litigated this matter instead of settling. Had Mangan been unhappy with an adverse decision by a FINRA hearing panel, he could have appealed to the National Adjudicatory Council, and could have further appealed the matter to the Commission. Mangan chose not to do so. Instead, Mangan now asks the Commission to not only ignore these facts and to disregard the lack of jurisdiction under Section 19(d), but to invalidate a vitally important aspect of the settlement for FINRA: the finality it achieved. The Commission should reject Mangan’s arguments.

SEC LEXIS 956 (Apr. 30, 2008); *Larry A. Saylor*, 58 S.E.C. 586 (2005); *Warren B. Minton, Jr.*, 55 S.E.C. 1170 (2002); *Lance E. Van Alstyne*, 53 S.E.C. 1093 (1998). Just as the Commission lacked jurisdiction in those cases to review the denials of requests to vacate, there is no basis for the Commission to exercise jurisdiction over Magan's appeal of FINRA's denial of his Petition to vacate. Thus, the Commission should dismiss this case.

Notwithstanding this straightforward precedent, Mangan argues that *Frank R. Rubba*, 53 S.E.C. 670 (1998), supports his position that the Commission has jurisdiction to review his appeal of FINRA's denial letter. Opp. 10. *Rubba*, however, involved a factual and procedural history completely different from the one present here. Frank Rubba entered into an AWC with NASD in which he accepted a censure and an \$8,000 fine. After Rubba did not pay the fine, NASD summarily revoked his registration pursuant to NASD Rule 8320. Rubba then requested reinstatement upon his payment of the fine but without having to requalifying by examination. 53 S.E.C. 670, 672. NASD denied Rubba's request to re-enter the securities industry without requalifying by examination. On appeal, the Commission concluded it had jurisdiction under Section 19(d) to review the matter. It stated that NASD had "effectively barred" Rubba from applying for association with any NASD member until he satisfied a requalification requirement that NASD rules did not require. Notably, while the Commission set aside NASD's requalification requirement, it stated that Rubba must still pay the fine as agreed to pursuant to his AWC.

*Rubba* is, therefore, strikingly different from the facts presented here. In *Rubba*, the Commission found that NASD's erroneous decision requiring Rubba to requalify effectively barred him. In contrast, FINRA's denial of Mangan's Petition did not effectively bar Mangan or

otherwise impose any prohibition, limitation of access, or sanctions upon him—he was already in fact barred by the AWC he agreed to. Nor did Rubba collaterally attack or in any way challenge the AWC he agreed to—as Mangan does here. Consequently, *Rubba* does not support Mangan’s effort to circumvent the lack of jurisdiction over his appeal.

Mangan’s reliance on *Gregory Acosta*, Exchange Act Release No. 89121, 2020 SEC LEXIS 3470 (Jun. 22, 2020), is similarly unfounded and unpersuasive. That appeal involved a review of FINRA’s determination that Acosta was subject to statutory disqualification. The Commission concluded that FINRA’s determination that Acosta was subject to a statutory disqualification effectively barred Acosta from associating with a FINRA member firm and was therefore reviewable under Section 19(d). As stated above, FINRA’s May 2025 denial does not have the effect of barring Mangan, the AWC did that.

Rather, as stated above, the cases cited by FINRA in its motion are squarely on point and wholly support the proposition that the Commission does not have jurisdiction to hear Mangan’s appeal of FINRA’s denial letter. In those cases, a respondent was subject to a final disciplinary action, either through an AWC, settlement, or default decision. Each respondent requested that FINRA set aside his respective disciplinary sanction, and each request was denied. On appeal to the Commission, the result was the same—the Commission lacked jurisdiction to review FINRA’s denial of his request to vacate. That is precisely the issue here and why Mangan’s application for review should be dismissed.<sup>3</sup>

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<sup>3</sup> The other arguments raised by Mangan in his opposition—including *res judicata*, ineffective assistance of counsel, and that setting aside Mangan’s agreed-upon bar is in the public interest—are collateral attacks on a settlement he agreed to which the Commission does [Footnote continued on next page]

## **B. The Commission Should Stay Briefing**

Despite Mangan’s handwringing, the Commission routinely grants requests to stay briefing this early in a proceeding where dispositive motions are pending—and this case should be no different. “Extending the briefing schedule would promote administrative efficiency because briefing on the merits would be unnecessary were the Commission to grant FINRA’s motion to dismiss. Conversely, the proceeding would not be unduly delayed if the Commission were to deny FINRA’s motion.” *Transportation Group (Securities) Limited*, Exchange Act Release No. 98447, 2023 SEC LEXIS 2604, \* at 2 (Sept. 20, 2023) (granting FINRA’s motion to stay briefing); *see also Sebastian G. Bongiovanni*, Exchange Act Release No. 101567, 2024 SEC LEXIS 3008 (Nov. 8, 2024) (same).

Mangan relies on *Adam Strege*, Exchange Act Release No. 102435, 2025 SEC LEXIS 470 (Feb. 18, 2025) to support his request that the Commission deny FINRA’s motion to stay briefing. However, unlike the cases cited above that deal explicitly with a pending dispositive motion, *Strege* involved the Commission’s denial of FINRA’s motion to consolidate—and by extension the denial of a stay of that briefing schedule. Moreover, Mangan has not been “denied the opportunity to have his case reviewed on the merits for nearly two decades . . .” Opp. at. 20. Mangan waived his right to challenge FINRA’s disciplinary case on the merits when he entered into his AWC in 2005. Moreover, the genesis of this application for review is FINRA’s May 2025 denial of his October 2024 Petition to vacate. These proceedings have been pending for

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[cont’d]

not have jurisdiction to review. Should the Commission request briefing on those issues, FINRA reserves all of its rights to make arguments on these points.

less than one month and are in the initial stages, and no other postponements have been granted or requested to date. The Commission should therefore grant FINRA's request to stay briefing on the merits of this matter until it resolves the motion to dismiss.

### **III. CONCLUSION**

Mangan has not provided any legitimate reason for the Commission to ignore its well-established precedent concerning its lack of jurisdiction over this appeal. Accordingly, and for the reasons stated in FINRA's original motion, the Commission should dismiss Mangan's application for review and stay briefing.

Respectfully submitted,

/s/ Colleen Durbin

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June 20, 2025

**CERTIFICATE OF SERVICE**

I, Colleen Durbin, certify that on this June 20, 2025, I caused a copy of the foregoing Reply in Support of FINRA's Motion to Dismiss John F. Mangan's Application for Review and Stay Briefing, In the Matter of the Application of John F. Mangan, Administrative Proceeding File No. 3-22478, to be filed through the SEC's eFAP system on:

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
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**CERTIFICATE OF COMPLIANCE**

I, Colleen Durbin, certify that this motion complies with the Commission's Rules of Practice by filing a brief in opposition that omits or redacts any sensitive personal information described in Rule of Practice 151(e).

/s/Colleen Durbin

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