

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 103669

Admin. Proc. File No. 3-22491

In the Matter of the Application of  
MICHAEL CIRO COLLETTI  
For Review of Action Taken by  
FINRA

**REPLY**  
**IN SUPPORT OF APPLICATION FOR REVIEW**

December 16, 2025

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## **TABLE OF CONTENTS**

<b>I. ISSUES BEFORE THE COMMISSION .....</b>	<b>4</b>
<b>II. ARGUMENT.....</b>	<b>4</b>
<b>A. Colletti is Not a Recidivist .....</b>	<b>4</b>
<b>1. FINRA Effectively Concedes the OHO and NAC Performed No Relevancy Analysis .....</b>	<b>4</b>
<b>2. FINRA Mischaracterizes Colletti's Argument .....</b>	<b>5</b>
<b>B. The Sanctions Imposed were Punitive and Oppressive .....</b>	<b>5</b>
<b>VI. CONCLUSION.....</b>	<b>6</b>

## **TABLE OF AUTHORITIES**

<b>Other Authorities</b>	<b>Pages(s)</b>
OHO Decision at 16.....	4
<i>Sanction Guidelines</i> .....	5, 6
<i>Sanction Guidelines</i> at 2.....	5
<i>Sanction Guidelines</i> at 6.....	5, 6
 <b>Rules</b>	
FINRA Rule 9346(b). ....	5

## **I.**

### **ISSUES BEFORE THE COMMISSION**

Colletti's opening brief succinctly states the two issues before the Commission. Colletti challenges (1) his characterization as a recidivist for purposes of a sanctions computation; and (2) the sanctions imposed as being punitive, excessive and not remedial.

## **II.**

### **ARGUMENT**

#### **A. Colletti is Not a Recidivist**

Colletti's first argument is straightforward. The Sanction Guidelines ask an adjudicator to consider only "relevant" disciplinary history when considering such disciplinary history as an aggravating factor for purposes of a sanction computation. Nowhere in its 31-page brief does FINRA squarely address Colletti's argument. FINRA instead talks around the issue and offers a strawman argument.

#### **1. FINRA Effectively Concedes the OHO and NAC Performed No Relevancy Analysis**

The NAC's decisions reflect no relevance analysis as it related to Colletti's prior AWC and FINRA does not contend otherwise. Instead, the NAC determined that Colletti previously committed a rule violation and is therefore a recidivist warranting an increased sanction. OHO Decision at 16. However, the NAC's logic was flawed because all disciplinary history – relevant or otherwise – includes a rule violation of one type or another. By failing to analyze the relevance of the prior AWC, the NAC abdicated its responsibilities under the Sanction Guidelines.

## **2. FINRA Mischaracterizes Colletti's Argument**

FINRA argues that “Colletti reads the requirement that the NAC consider relevant prior misconduct too narrowly to apply only when disciplinary history is ‘identical’ to the misconduct at issue.” Brief in Opposition to Application for Review (“Opp.”) at 24-25. This is not Colletti’s argument. Instead, Colletti properly argues that the Sanction Guidelines require that the “significant past misconduct that is *similar* to the misconduct at issue.” *Sanction Guidelines* at 2 (emphasis added). FINRA argues that Colletti’s prior misconduct is similar to the current conduct because it shows, “a disregard for FINRA rules.” Opp. at 2. Following this argument, however, leads to the unsupportable conclusion that every prior rule violation, similar or not, is evidence of recidivism. There is no credible argument that failure to supervise cold callers (Colletti’s prior misconduct) is similar to unauthorized and excessive trading (the current misconduct).

### **B. The Sanctions Imposed were Punitive and Oppressive**

FINRA’s refusal to consider Colletti’s ability to pay clearly ran afoul of the Sanction Guidelines. See *Sanction Guidelines* at 6 (“When raised by a respondent, Adjudicators are required to consider inability to pay in connection with the imposition, reduction, or waiver of a fine or restitution.”).

FINRA’s argument is that Colletti waived his right to present evidence regarding his inability to pay on appeal because he failed to present a motion for leave so do so pursuant to FINRA Rule 9346(b). Opp. at 12. FINRA’s argument ignores some critical facts. First and foremost, it provides no consideration for the fact that Colletti was appearing *pro se*. In addition, while trying to defend himself in what is a very complicated process, he was also living through the nightmare of taking care of his dying wife.

FINRA also ignores the fact that Collett's inability to pay and evidence thereof is a constantly moving target. As his wife's condition worsened, so did the financial burden created by the disease. Although Colletti did not raise this issue at the trial-level, on appeal to the NAC he was clearly articulating a then-current strain to his finances occasioned by his wife's evolving cancer treatment. That is precisely why the Sanction Guidelines state that a failure to raise inability to pay at the trial-level should not be deemed a waiver if "**the inability to pay is alleged to have resulted from a subsequent change in circumstances.**" *Sanction Guidelines* at 6 (emphasis added). In the present case, the Colletti's ability to pay was changing constantly and deteriorating day by day. Under those circumstances, the Commission should remand this issue for consideration of Colletti's ability to pay the fine and restitution. Alternatively, as requested in the accompanying motion, the Commission should itself consider Colletti's ability to pay.

## VI.

### CONCLUSION

For the reasons above, Colletti respectfully requests that the Commission set aside FINRA's imposed sanctions and/or remand as appropriate, and for such other and further relief the Commission deems appropriate.

Dated: December 16, 2025

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**CERTIFICATE OF SERVICE**

This Reply in Support of Application for Review of was served electronically on December

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