

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

In the Matter of the Application of

Rebecca Joann Duval

For Review of Action Taken By

FINRA

File No. 3-22666

**FINRA'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS
THE APPLICATION FOR REVIEW**

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September 14, 2026

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I. INTRODUCTION

Pursuant to SEC Rule of Practice 154, FINRA replies to Applicant Rebecca Joann Duval’s opposition to its motion to dismiss the application for review. As discussed in FINRA’s motion, the Commission lacks jurisdiction to consider Duval’s application under Section 19(d) of the Securities Exchange Act of 1934. Duval’s opposition fails to demonstrate otherwise, as it does not identify an instance in which FINRA has prohibited or limited her in accessing a service it offers. Because Duval has not established the Commission’s jurisdiction to consider her application, dismissal is required.

II. ARGUMENT

Duval argues that a ground for jurisdiction under Section 19(d) applies because, in her view, FINRA prohibited or limited her in accessing an “automated” enforcement service when it determined that it will not yet seek to suspend her former firm for its failure to comply with an arbitration award in her favor. But FINRA does not offer the “automated” enforcement service

Duval describes. Her arguments to the contrary misapprehend the nature of FINRA’s discretionary authority to discipline a member or associated person’s failure to comply with an arbitration award. Duval’s remaining arguments are irrelevant to the threshold jurisdictional issue or otherwise lack merit.

A. Duval’s Arguments Misapprehend the Nature of FINRA’s Authority to Discipline Failures to Comply with Arbitration Awards

Duval insists, incorrectly, that FINRA performs a “mechanical” or “automated” function to suspend members and their associated persons for failures to comply with arbitration awards entered in its forum. Opposition, unnumbered at 1-3, 6-7 (citing FINRA Rule 9554 and FINRA By-Laws of the Corporation, Art. VI, Sec. 3(b)). Based on this mistaken premise, she jumps to a mistaken conclusion—that FINRA has prohibited or limited her in accessing an automated or mandatory enforcement service. Opposition, unnumbered at 1-3, 6-7, 14.

As discussed in FINRA’s motion, Duval’s argument for jurisdiction is mistaken because it does not perform the “automated,” or mandatory function she describes. Motion to Dismiss at 8-13. Rather, FINRA exercises prosecutorial discretion to determine whether, and when, it will institute a proceeding to address a member’s or associated person’s failure to comply with an arbitration award. *Michael Albert DiPietro*, Exchange Act Release No. 77398, 2016 SEC LEXIS 1036, at *15 (Mar. 17, 2016). Because FINRA does not offer the mandatory service Duval describes, the Commission must dismiss her application.¹ *Michael Andrew DeMaria*, Exchange Act Release No. 97511, 2023 SEC LEXIS 1271, at *7, 11 (May 16, 2023).

The specific arguments Duval raises in her opposition do not demonstrate otherwise. While she states that FINRA’s prosecutorial discretion applies only to those proceedings

¹ As discussed in FINRA’s motion, Duval also has not demonstrated that FINRA has prohibited or limited her in accessing the service she describes. Motion to Dismiss, at 11-13.

governed by its Rule 9200 series, this is simply incorrect. Opposition, unnumbered at 3-4. As the Commission has recognized, FINRA's discretion to determine whether it will seek to address a failure to comply with an arbitration award includes the latitude to determine whether it will proceed under the Rule 9200 series or in an expedited proceeding under Rule 9554. *See Keith Patrick Sequeira*, Exchange Act Release No. 81786, 2017 SEC LEXIS 3105, at *3 & n. 2, 4 (Sep. 29, 2017) (explaining that FINRA may choose to bring a proceeding for the failure to comply with an award under the Rule 9200 series or under Rule 9554). In either case, the determination as to whether FINRA will institute a proceeding at all is discretionary. *See DiPietro*, 2016 SEC LEXIS 1036, at *14-15 & n. 19-20; *see also Daniel Joseph Avant*, 52 S.E.C. 442, 444-45 (1995).

The authority Duval cites also fails to support her position. While Duval cites various matters in which FINRA imposed a suspension for the failure to comply with an arbitration award, none of these cases suggests that FINRA must pursue such a sanction—let alone at a particular time.² *See* Opposition, unnumbered at 5-6, 8. And none of them suggests that Section 19(d) authorizes the Commission to issue an order compelling FINRA to suspend a member or institute a proceeding to do so. *See id.*

² Nor are any of the cases Duval cites inconsistent with FINRA's responses to her in this matter. FINRA explained to Duval that it would forbear seeking the suspension of her former firm because, under Massachusetts state law, the firm's appeal had the effect of staying automatically the lower court's order confirming the award. RP 86-87, 107-08; Mass. R. Civ. P. 62(d). While several of the cases Duval cites explain that an appeal from a court order confirming an award is not, in and of itself, a basis to avoid a suspension when FINRA seeks one under Rule 9554, none of those cases involved a stay of the court order confirming the relevant award. *See, e.g., Keith Patrick Sequeira*, Exchange Act Release No. 85231, 2019 SEC LEXIS 286, at *4-5, 18-19 (Mar. 1, 2019); *William J. Gallagher*, 56 S.E.C. 163, 164-66 (2003); *Joseph Michael Shimko*, Expedited Proceeding No. ARB200002, 2020 FINRA Discip. LEXIS 41, at *6 & n.18, 23 (FINRA Hearing Panel Sep. 15, 2020).

Finally, it does not help Duval to state that the “mechanical” enforcement she seeks is part of FINRA’s “arbitration framework.” Opposition, unnumbered at 6-7. As FINRA discussed in its motion, an applicant who seeks review of a prohibition or limitation on access to a purported service must identify the particular service. Motion to Dismiss, at 9, 13-14 (citing, e.g., *DeMaria*, 2023 SEC LEXIS 1271, at *7). Otherwise, any applicant could circumvent the statutory limits on the Commission’s jurisdiction with broad and imprecise characterizations of a “service.” See *Jonathan Edward Graham*, Exchange Act Release No. 89237, 2020 SEC LEXIS 2670, at *6 (July 7, 2020) (Section 19(d) authorizes review “only in specific circumstances”). Here, Duval indisputably accessed FINRA’s arbitration forum and, therefore, no prohibition or limitation of access to FINRA’s arbitration service is at issue. RP 1-9. The purported enforcement service Duval describes is distinct from arbitration, and she cannot escape the fact that FINRA offers no such service by conflating it with the arbitration service she already has accessed.³

B. Duval’s Remaining Arguments Are Irrelevant or Otherwise Lack Merit

Duval’s remaining arguments are irrelevant or otherwise lack merit. She criticizes FINRA’s determination to forbear seeking the suspension of her former firm while a judicial stay of the state court order confirming the relevant arbitration award is in place. In particular, Duval asserts this determination is arbitrary and not required by the stay. Opposition, unnumbered at 2-5. She also asserts that FINRA’s determination creates “geographical prejudice” based on varying state laws. Opposition, unnumbered at 7-8.

³ While Duval refers to the fact that she is a securities industry professional who may associate with another FINRA member, her industry status makes no difference to the question of whether FINRA offers the “mandatory” enforcement service she describes. See Opposition, unnumbered at 12. Notably, Duval identifies no authority indicating that FINRA provides such an automatic service for those in the industry.

Duval's arguments in this respect are irrelevant, as they presuppose the Commission's jurisdiction to review the merits of FINRA's determination that it will not seek her former firm's suspension at this time. For all the reasons discussed in FINRA's motion and this reply, the Commission has no such jurisdiction. Duval's views on the merits of FINRA's determination cannot create jurisdiction when there is none. *See Graham*, 2020 SEC LEXIS 2670, at *8-9; *Dustin Tylor Aiguier*, Exchange Act Release No. 88953, 2020 SEC LEXIS 1430, at *7 & n.14 (May 26, 2020) ("arguments regarding the merits do not create jurisdiction" under Section 19(d)).

Finally, the Commission should deny Duval's meritless request to strike FINRA's motion to dismiss. Relying on Commission Rules of Practice 102(e) and 153, Duval urges the Commission to strike the motion because, in her view, FINRA: (1) improperly sought to delay this proceeding by requesting extensions of the deadline to file the record and the briefing schedule; (2) failed to accurately describe in its motion certain communications she sent to FINRA; and (3) "scrubbed" its index to the certified record to omit descriptions of certain communications between her and FINRA. Opposition, unnumbered at 9-12, 13-14.

Duval's request lacks merit, for a couple of reasons. First, even assuming her characterizations of FINRA's actions are accurate (which they are not), striking FINRA's motion would not be an appropriate remedy. Rule 102(e) provides that the Commission may censure certain persons or deny them the privilege of appearing before it if they engage in certain conduct or lack the requisite qualifications to represent others.⁴ 17 C.F.R. § 201.102(e). But it

⁴ Duval also cites Commission Rule of Practice 153, which addresses signature requirements and effects, but this rule provides that a filing may be stricken only if it is not signed, which is not the case here. 17 C.F.R. § 201.153(b)(2); Motion to Dismiss, at 18. And, [Footnote continued on next page]

does not specifically address striking pleadings. *See id.* Moreover, striking FINRA’s motion would serve no useful purpose, as it addresses threshold jurisdictional issues and is signed by a qualified representative of FINRA. *See* 17 C.F.R. § 201.102(b) (addressing requirements to represent others).

In any event, Duval’s characterizations of FINRA’s actions are inaccurate. As to the extension requests, the Commission expressly found FINRA’s request for a four-day extension to file the record to be “reasonable,” implicitly rejecting Duval’s argument that the request would cause undue delay. Aug. 17, 2026 Order Extending Time to File Certified Record, at 1. FINRA’s request to extend the briefing schedule is consistent with Commission precedent, and was made so the Commission may rule on threshold, dispositive jurisdictional issues prior to any further briefing. Motion to Dismiss, at 16 (citing *Joseph Gordon Nelson*, Exchange Act Release No. 105152, 2026 SEC LEXIS 929, at *1-2 & n.1 (Apr. 6, 2026)).

Moreover, FINRA’s motion to dismiss properly focuses on and describes the communications at issue—namely, its responses to Duval’s requests that it immediately suspend, or seek to suspend, her former firm. *See* Motion to Dismiss at 5-16; RP 86-87, 107-08. And its index to the certified record accurately describes the documents therein, by date and name. To the extent Duval wishes to emphasize or further describe certain communications, FINRA has not prevented her from doing so in her opposition.⁵

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while Rule 152 provides that the Commission may strike a pleading that includes “scandalous or impertinent matter,” it is clear FINRA’s motion includes no such content. *See* 17 C.F.R. § 201.152(f).

⁵ The emails in Exhibit A to Duval’s opposition (apart from those that include only her and her counsel) are in FINRA’s certified record. Opposition, Ex. A; RP 54-64. Exhibit B to Duval’s opposition includes July 6 and July 7, 2026 emails between her and FINRA’s Office of

[Footnote continued on next page]

* * *

Duval's opposition fails to establish the Commission's jurisdiction over her application because it does not identify an instance in which FINRA prohibited or limited her in accessing a service it offers. Her arguments to the contrary either misapprehend the nature of FINRA's enforcement authority or are irrelevant. Moreover, the Commission should deny Duval's meritless request to strike FINRA's motion to dismiss.

III. CONCLUSION

For the reasons explained in FINRA's motion to dismiss, the Commission should dismiss Duval's application for lack of jurisdiction and extend the briefing schedule until such time that it renders a decision on FINRA's dispositive motion.

Respectfully submitted,



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the Ombuds. Opposition, Ex. B. These emails are not in the certified record and have no impact on the jurisdictional issues before the Commission. Nevertheless, FINRA does not object to Duval including them as an attachment to her opposition.

CERTIFICATE OF COMPLIANCE

I, Ashley Martin, certify that:

- (1) FINRA's Motion to Dismiss the Application for Review and Response to Duval's Motion to Vacate the Briefing Schedule complies with SEC Rule of Practice 151(e) because it omits or redacts any sensitive personal information; and
- (2) FINRA's Motion to Dismiss the Application for Review and Response to Duval's Motion to Vacate the Briefing Schedule complies with the limitation set forth in SEC Rule of Practice 154(c). I have relied on the word count feature of Microsoft Word in verifying that this motion contains 1,939 words.



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CERTIFICATE OF SERVICE

I, Ashley Martin, certify that on this 14th day of September 2026, I caused a copy of the foregoing Motion to Dismiss the Application for Review and Response to Duval's Motion to Vacate the Briefing Schedule to be filed through the Commission's electronic filing system, effecting service on:

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington DC 20549-1090

On this date, I also caused a copy of the reply to be served by email on:

Rebecca Joann Duval

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] _____
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