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

CORRECTED REPLY
IN SUPPORT OF APPLICATION FOR REVIEW

December 16, 2025

Robert L. Herskovits, Esq.
HERSKOVITS PLLC
Counsel for Michael Ciro Colletti
305 Broadway, 7th FL
New York, New York 10007
Telephone: (212) 897-5410
Email: robert@herskovitslaw.com

OS Received 12/16/2025

TABLE OF CONTENTS

I. ISSUES BEFORE THE COMMISSION 4

II. ARGUMENT 4

A. Colletti is Not a Recidivist 4

1. FINRA Effectively Concedes the OHO and NAC Performed No Relevancy Analysis 4

2. FINRA Mischaracterizes Colletti's Argument 5

B. The Sanctions Imposed were Punitive and Oppressive 5

VI. CONCLUSION 6

OS Received 12/16/2025

TABLE OF AUTHORITIES

Other Authorities **Pages(s)**

NAC Decision at 16……4
Sanction Guidelines……5, 6
Sanction Guidelines at 2…… 5
Sanction Guidelines at 6……..5, 6

Rules

FINRA Rule 9346(b). 5

OS Received 12/16/2025

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. This corrected reply corrects typographical errors in the original reply.

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 decision reflects 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. NAC 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.

OS Received 12/16/2025

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.

OS Received 12/16/2025

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

/s/ *Robert L. Herskovits*

Robert L. Herskovits, Esq.
Counsel for Michael Ciro Colletti
HERSKOVITS PLLC
305 Broadway, 7th FL
New York, NY 10007
(212) 897-5410
robert@herskovitslaw.com

OS Received 12/16/2025

CERTIFICATE OF SERVICE

This Reply in Support of Application for Review of was served electronically on December 16, 2025 to:

The Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, DC 20549
Via eFAP

-and-

FINRA
Office of General Counsel
Attn: Cecilia Passsaro
1700 K Street, N.W.
Washington, DC 20006
ersilia.passaro@finra.org
nac.casefilings@finra.org
Via eFAP and e-mail

/s/ Robert L. Herskovits
Robert L. Herskovits, Esq.

OS Received 12/16/2025