

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

In the Matter of the Application of

Ronald Moschetta

For Review of Action Taken by FINRA

File No. 3-22456

FINRA'S REPLY BRIEF IN SUPPORT OF ITS MOTION TO DISMISS

Michael Garawski
Senior Vice President and
Director – Appellate Group

Jennifer Brooks
Associate General Counsel

Celia Passaro
Associate General Counsel

FINRA
1700 K Street, NW
Washington, DC 20006
(202) 728-8985
ersilia.passaro@finra.org
nac.casefilings@finra.org

Dated: May 2, 2025

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

In the Matter of the Application of
Ronald Moschetta
For Review of Action Taken by FINRA
File No. 3-22456

FINRA’S REPLY BRIEF IN SUPPORT OF ITS MOTION TO DISMISS

In its Motion to Dismiss, FINRA argued that Moschetta’s application to review an 11-year-old FINRA disciplinary decision against him is both untimely and precluded because he improperly bypassed review by FINRA’s National Adjudicatory Council (“NAC”). FINRA also argued that the Commission lacks jurisdiction to review FINRA Dispute Resolution Services’ (“DRS”) denial of Moschetta’s request to expunge this disciplinary proceeding because expungement of a regulatory action is not a service FINRA offers. In his opposition, Moschetta does not address any of these salient points. Instead, he makes unsupported and undeveloped claims about the fairness of FINRA’s proceedings and complains about the collateral effects of the bar FINRA imposed on him. None of Moschetta’s arguments are relevant here and, for the reasons set forth more fully in FINRA’s Motion to Dismiss, the Commission should dismiss Moschetta’s application for review.

As discussed in more detail in FINRA’s Motion to Dismiss, on October 15, 2013, a FINRA Hearing Panel issued a decision finding that Moschetta violated FINRA Rules 8210 and

2010 by failing to provide complete responses to FINRA’s multiple requests for documents.¹

RP 4-13. The Hearing Panel barred Moschetta for these violations. *Id.* Despite receiving notice of the Hearing Panel’s decision, Moschetta did not appeal to the NAC and, as a result, the Hearing Panel’s decision became FINRA’s final disciplinary action against him. RP 1-3.

Eleven years later, Moschetta filed this application for review of the Hearing Panel’s decision. RP 99-101. It is well-settled that the Commission will not review a FINRA action when, as here, the applicant fails to exhaust his administrative remedies by first appealing to the NAC. *See Shlomo Sharbat*, Exchange Act Release No. 93757, 2021 SEC LEXIS 3647, at *8-12 (Dec. 13, 2021) (dismissing an application for review when the respondent failed to exhaust his administrative remedies before FINRA by, among other things, appealing a default decision against him to the NAC). Moschetta’s opposition does not address this controlling precedent, and the Commission should dismiss the application for review on the grounds that Moschetta failed to exhaust his administrative remedies before FINRA.²

Even if Moschetta had exhausted the administrative remedies available before FINRA—which he did not—his application for Commission review, which he filed 11 years after the Hearing Panel issued its decision, is unquestionably untimely. *See* 15 U.S.C. § 78s(d)(2)

¹ The Rule 8210 requests were part of an investigation of alleged unauthorized trading and possible misuse of investor funds by Moschetta. RP 6.

² The Commission should decline to consider Moschetta’s arguments in his opposition concerning the merits of the matters FINRA was investigating at the time of his Rule 8210 violations and the fairness of FINRA’s investigation. Moschetta’s failure to exhaust his administrative remedies before FINRA precludes Commission review of these claims. *See Shlomo Sharbat*, 2021 SEC LEXIS 3647, at *16-17 (declining to reach respondent’s arguments related to Hearing Officer’s decision because respondent “failed to exhaust his administrative remedies before FINRA and his appeal is untimely”). In any event, Moschetta’s arguments concerning FINRA’s underlying investigation have no bearing on the Hearing Panel’s findings, which concerned his failure to cooperate with FINRA’s investigation. The Hearing Panel’s decision made no findings whatsoever about the subjects of FINRA’s underlying investigation.

(providing that a person aggrieved by a FINRA action may seek Commission review “within 30 days” after the date of the notice of the action). Moschetta does not address the untimeliness of his application for review or offer any explanation for it, much less make the showing of “extraordinary circumstances” necessary for an extension. *See* Commission Rule of Practice 420, 17 C.F.R. § 201.420(b) (providing that the Commission “will not extend this 30-day period, absent a showing of extraordinary circumstances”). The Commission should therefore also dismiss the application for review on the grounds that it is untimely.

Finally, Moschetta does not address at all the Commission’s jurisdiction to review DRS’s denial of the arbitration forum for his request to expunge a regulatory action. RP 15. As discussed in FINRA’s Motion to Dismiss, expungement of a regulatory action is not a service FINRA offers and, accordingly, the Commission does not have jurisdiction to review such a denial under Section 19(d) of the Securities Exchange Act of 1934. *See Michael Andrew DeMaria*, Exchange Act Release No. 97511, 2023 SEC LEXIS 1271, at *7 (May 16, 2023) (finding that expungement of regulatory action information is not a service offered by FINRA and dismissing application for review).

* * * * *

Moschetta’s opposition does not address any of the grounds on which FINRA based its Motion to Dismiss. The record establishes conclusively that Moschetta failed to exhaust the administrative remedies available before FINRA because he did not appeal the Hearing Panel’s decision to the NAC. Moschetta’s application for review is also more than a decade late and Moschetta has not made any arguments whatsoever that would support a finding of the extraordinary circumstances necessary to excuse his untimeliness. Finally, the Commission does not have jurisdiction to review DRS’s denial of the arbitration forum for Moschetta’s

expungement request because expungement of regulatory action information is not a service FINRA offers. For all these reasons, the Commission should dismiss Moschetta's application for review.

Respectfully submitted,

/s/ Celia Passaro
Celia Passaro
Associate General Counsel
FINRA
1700 K Street, NW
Washington, DC 20006
(202) 728-8985
ersilia.passaro@finra.org
nac.casefilings@finra.org

Dated: May 2, 2025

CERTIFICATE OF COMPLIANCE

I, Celia Passaro, certify that FINRA's Reply Brief in Support of its Motion to Dismiss complies with SEC Rule of Practice 151(e) because it omits or redacts any sensitive personal information.

/s/ Celia Passaro

Celia Passaro

Associate General Counsel

FINRA – Office of General Counsel

1700 K Street, NW

Washington, DC 20006

(202) 728-8985

ersilia.passaro@finra.org

nac.casefilings@finra.org

Dated: May 2, 2025

CERTIFICATE OF SERVICE

I, Celia Passaro, certify that on this 2nd day of May 2025, I caused a copy of the foregoing FINRA's Reply Brief in Support of its Motion to Dismiss in the matter of Application for Review of Ronald Moschetta, Administrative Proceeding No. 3-22456, to be served via eFAP on:

Vanessa A. Countryman, Secretary
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, DC 20549-1090

and by email on:

Ronald Moschetta
[REDACTED]
[REDACTED]
[REDACTED]

/s/ Celia Passaro _____
Celia Passaro
Associate General Counsel
FINRA
1700 K Street, NW
Washington, DC 20006
(202) 728-8985
ersilia.passaro@finra.org
nac.casefilings@finra.org