

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81190 / July 24, 2017

Admin. Proc. File No. 3-17767

In the Matter of the Application of

MCBARRON CAPITAL LLC

For Review of Action Taken by FINRA

ORDER REQUESTING ADDITIONAL WRITTEN SUBMISSION

McBarron Capital LLC filed an application for review of a FINRA Hearing Officer's decision cancelling its membership after the firm failed to pay outstanding fees owed to FINRA.¹ Acting pursuant to delegated authority and Rule of Practice 411,² the Commission's Office of the General Counsel issued an order granting the application for review on February 24, 2017.³ That order directed McBarron to file its opening brief in support of the application for review by March 27, 2017.⁴ The order also reminded McBarron that, pursuant to Rule of Practice 180(c),⁵ "failure to file a brief in support of the application may result in dismissal of this review proceeding."⁶

¹ *McBarron Capital LLC*, FINRA Expedited Proceeding No. DFC160001, STAR No. 20160521585 (Dec. 8, 2016), *available at* https://www.finra.org/sites/default/files/OHO_McBarron_DFC160001_120816_0.pdf.

² 17 C.F.R. § 201.411.

³ *See McBarron Capital LLC*, Exchange Act Release No. 80108, 2017 WL 733182 (Feb. 24, 2017) (order scheduling briefs).

⁴ *See id.*

⁵ 17 C.F.R. § 201.180(c).

⁶ *McBarron Capital*, 2017 WL 733182, at *1.

McBarron did not timely file its opening brief. On April 3, 2017, FINRA filed a motion to dismiss McBarron's application for review due to McBarron's failure to file. McBarron had five days to respond to FINRA's motion under Rule of Practice 154(b),⁷ but did not do so.

On April 20, 2017, the Commission's Office of the General Counsel issued an order dismissing McBarron's application for review after McBarron failed to file an opening brief or respond to FINRA's motion to dismiss due to the failure to file.⁸ The same day, the Commission's Office of the Secretary received a filing from McBarron that suggested that it wished to continue to pursue its appeal of FINRA's action.

On May 11, 2017, the Commission issued an order to show cause why the review proceeding should be reopened.⁹ The order to show cause explained that McBarron's response "must address . . . why McBarron failed to file its opening brief or an opposition to FINRA's motion to dismiss; and what good cause exists for vacating the April 20 order dismissing the review proceeding and allowing McBarron to file an untimely opening brief."¹⁰

The Commission's Office of the Secretary received McBarron's two-page response on May 26, 2017. McBarron's response recounted certain events that happened before the FINRA Hearing Officer and described these as providing "[c]ause for continuance of hearing." But these events do not, and do not purport to, address the two issues identified in the order to show cause: why McBarron failed to file its opening brief, and why the Commission should reopen this proceeding and allow McBarron to file an untimely opening brief.¹¹

This order provides McBarron one final opportunity to explain why this proceeding should be reopened. McBarron is advised that its appeal will not be reopened unless it demonstrates in a supplemental brief why the Commission should excuse its untimely and incomplete filings in this appeal. The supplemental brief must address these two issues:

- why McBarron failed to file its opening brief on or before March 27, 2017, or an opposition to FINRA's April 3, 2017 motion to dismiss; and
- why the Commission should excuse McBarron's failure to file, reopen this dismissed proceeding, and allow McBarron to file an untimely opening brief.

⁷ 17 C.F.R. § 201.154(b).

⁸ See *McBarron Capital LLC*, Exchange Act Release No. 80499, 2017 WL 1406911 (Apr. 20, 2017) (order dismissing review proceeding).

⁹ See *McBarron Capital LLC*, Exchange Act Release No. 80662, 2017 WL 1953455 (May 11, 2017) (order to show cause why proceeding should be reopened).

¹⁰ *Id.* at *2.

¹¹ McBarron's response also did not adhere to Commission Rules of Practice 150 – 153. See 17 C.F.R. §§ 201.150-.153.

Any supplemental brief must be filed and served no later than July 31, 2017, must not exceed ten double-spaced pages, and must adhere to the Rules of Practice.

Accordingly, it is ORDERED that McBarron Capital LLC may file a supplemental brief in response to this order by July 31, 2017.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Brent J. Fields
Secretary