

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 82348 / December 18, 2017

Admin. Proc. File No. 3-13678r

In the Matter of the Application of
JOHN M.E. SAAD
For Review of Disciplinary Action Taken by
FINRA

ORDER SCHEDULING BRIEFS

On October 8, 2015, the Commission issued an opinion sustaining FINRA's imposition of a bar in all capacities against John M.E. Saad for violating NASD Rule 2110 by accepting reimbursement based on Saad's submission of false expense reports and receipts.¹ Saad petitioned for review in the United States Court of Appeals for the District of Columbia Circuit, which affirmed in part and remanded in part.² The court's mandate issued on December 5, 2017.

The D.C. Circuit held that, as required by a prior remand order, the Commission's October 8, 2015 decision "directly addressed [Saad's] mitigating evidence . . . and provided a careful and comprehensive analysis of Saad's arguments seeking a reduction in his sanction."³ The Commission's decision, the court held, "reasonably focused on the record of Saad's prolonged pattern of falsehoods and deception, as well as the direct threat that his misconduct posed to customers' and other participants' faith in the integrity of the securities industry."⁴ Nonetheless, the court remanded the matter again for the Commission to determine whether the Supreme Court's recent decision in *Kokesh v. SEC* "has any bearing on Saad's case."⁵

¹ *John M.E. Saad*, Securities Exchange Act Release No. 76118, 2015 WL 5904681 (Oct. 8, 2015).

² *Saad v. SEC*, 873 F.3d 297 (D.C. Cir. 2017).

³ *Saad*, 873 F.3d at 304.

⁴ *Id.*

⁵ *Id.* at 299 (citing 137 S. Ct. 1635 (2017)).

Accordingly, IT IS ORDERED, pursuant to Rule of Practice 450,⁶ that the parties shall file briefs limited to the issue of “the relevance—if any—of the Supreme Court’s recent decision in *Kokesh v. SEC.*”⁷ Saad shall file an opening brief by January 17, 2018. A brief in opposition shall be filed by February 16, 2018, and any reply brief shall be filed by March 2, 2018.⁸

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

Brent J. Fields
Secretary

⁶ 17 C.F.R. § 201.450.

⁷ *Saad*, 873 F.3d at 304.

⁸ As provided by Rule of Practice 450(a), no briefs in addition to those specified in this schedule may be filed without leave of the Commission. Attention is called to Rules of Practice 150 – 153, 17 C.F.R. §§ 201.150 – 153, with respect to form and service, and Rules of Practice 450(b) and (c), 17 C.F.R. §§ 201.450(b), 201.450(c), with respect to content and length limitations. Requests for extensions of time to file briefs are disfavored.