

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 92036 / May 26, 2021

Admin. Proc. File No. 3-19892

In the Matter of the Application of

ROBERT L. BRYANT III

For Review of Action Taken by

FINRA

ORDER REQUESTING ADDITIONAL BRIEFING

On June 4, 2020, Robert L. Bryant III filed an application for review of FINRA's September 29, 2017 determination that he is subject to a statutory disqualification under Section 3(a)(39) of the Securities Exchange Act of 1934.¹ The Commission issued an order requesting additional briefing regarding whether Bryant's appeal should be dismissed as untimely under Commission Rule of Practice 420(b).² Upon consideration of the briefs filed, we believe that additional briefing would "significantly aid the decisional process."³

¹ 15 U.S.C. § 78c(a)(39).

² 17 C.F.R. § 201.420(b); *Robert L. Bryant III*, Exchange Act Release No. 90670, 2020 WL 7364196 (Dec. 15, 2020).

³ Rule of Practice 421(b), 17 C.F.R. § 201.421(b).

Exchange Act Section 19(d)(2) provides that an application for review of FINRA action must be “filed within thirty days after the date . . . notice [of the action] was filed [under Exchange Act Section 19(d)(1)] with [the Commission] and received by [the] aggrieved person.”⁴ Similarly, Commission Rule of Practice 420(b) provides that appeals from such action must be filed “within 30 days after the notice of the determination is filed with the Commission and received by the aggrieved person applying for review.”⁵ It does not appear that FINRA filed a notice with the Commission under Exchange Act Section 19(d)(1) of its September 29, 2017 determination that Bryant is subject to a statutory disqualification.

FINRA cites *Orbixa Technologies, Inc.*, for the proposition that a self-regulatory organization’s “failure to file notice with the Commission does not extend the 30-day deadline to appeal.”⁶ However, the Commission requests further briefing on this issue.

The parties should address how, if at all, the deadline for filing an application for review of a FINRA action is affected by the date that FINRA files notice of the action with the Commission under Exchange Act Section 19(d)(1) and whether the failure to file such notice (as apparently is the case here)⁷ prevents the filing deadline from beginning to run. In answering this question, the parties should address the plain meaning of Exchange Act Section 19(d)(2) and Commission Rule of Practice 420(b),⁸ as well as any other relevant considerations.

Accordingly, it is ORDERED that the parties submit briefs addressing these issues by June 9, 2021. Responses to the initial briefs may be filed by June 23, 2021.

The parties’ attention is called to the Commission’s March 18, 2020 order regarding the filing and service of papers, which provides that pending further order of the Commission parties to the extent possible shall submit all filings electronically at apfilings@sec.gov.⁹ Also, the

⁴ 15 U.S.C. § 78s(d)(2).

⁵ 17 C.F.R. § 201.420(b).

⁶ *See Orbixa Techs., Inc.*, Exchange Act Release No. 70893, 2013 WL 6044106, at *3 & n.12 (Nov. 15, 2013).

⁷ FINRA may address the extent to which it satisfied the notice requirement.

⁸ *See, e.g., Tanzin v. Tanvir*, 141 S. Ct. 486, 489, 491 (2020) (“As usual, we start with the statutory text Without a statutory definition, we turn to the phrase’s plain meaning at the time of enactment.”).

⁹ *Pending Administrative Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (Mar. 18, 2020), <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.

Commission's Rules of Practice were recently amended to include new e-filing requirements, which took effect on April 12, 2021.¹⁰

By the Commission.

Vanessa A. Countryman
Secretary

¹⁰ *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. 86,464, 86,474 (Dec. 30, 2020); *see also* *Amendments to the Commission's Rules of Practice*, Exchange Act Release No. 90442, 2020 WL 7013370 (Nov. 17, 2020); *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. The amendments also impose other obligations on parties to administrative proceedings such as a new redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465–81.