

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 93093 / September 21, 2021

Admin. Proc. File Nos. 3-18616, 3-18617, 3-18877, 3-18879, 3-18883, 3-18910, 3-18919,  
3-18934, 3-18988, 3-19013, 3-19016, 3-19017, 3-19219, 3-19405, 3-19573, 3-19574,  
3-19611, 3-20160, 3-20205

In the Matter of the Application of  
  
CONSOLIDATED ARBITRATION APPLICATIONS  
  
For Review of Action Taken by  
  
FINRA

ORDER REQUESTING ADDITIONAL BRIEFING

John Joseph Hanlon IV and Jason Harry Kurchner, an associated person and a formerly associated person of FINRA member firms, each filed a claim in FINRA’s arbitration forum seeking to expunge from their Central Registration Depository records information about prior arbitration awards entered against them. After FINRA denied their expungement requests as ineligible for arbitration, Hanlon and Kurchner each filed an application for review with the Commission.<sup>1</sup> FINRA now moves to consolidate *Hanlon* and *Kurchner* with the *Consolidated Arbitration Applications*, and neither Hanlon nor Kurchner objects to FINRA’s request.

Commission Rule of Practice 201(a) provides that we may consolidate proceedings “involving a common question of law or fact.”<sup>2</sup> In addition to *Hanlon* and *Kurchner* appearing to raise similar factual and legal questions as in the *Consolidated Arbitration Applications*,

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<sup>1</sup> See Application for Review, *John Joseph Hanlon IV*, Administrative Proceeding File No. 3-20499 (Aug. 27, 2021), <https://www.sec.gov/litigation/apdocuments/3-20499-2021-08-27-application-for-review.pdf>; Application for Review, *Jason Harry Kurchner*, Administrative Proceeding File No. 3-20467 (Aug. 20, 2021), <https://www.sec.gov/litigation/apdocuments/3-20467-2021-08-20-application-for-review.pdf>.

<sup>2</sup> 17 C.F.R. § 201.201(a); see, e.g., *Consolidated Arbitration Applications*, Exchange Act Release No. 91305, 2021 WL 933266, at \*1-2 (Mar. 11, 2021) (consolidating two additional cases into the *Consolidated Arbitration Applications* and providing applicants the opportunity to (1) file a brief or affirmatively join other briefs filed in the consolidated proceedings or (2) implicitly rely on the other briefs filed in the consolidated proceedings).

Hanlon, Kurchner, and a majority of the applicants in the *Consolidated Arbitration Applications* are represented by counsel from the same law firm.<sup>3</sup> We have not yet issued the briefing schedule in *Hanlon* or *Kurchner*, and merits briefing in the *Consolidated Arbitration Applications* has concluded. We therefore believe that supplemental briefing on the issue of whether to consolidate these proceedings “would significantly aid the decisional process.”<sup>4</sup>

Accordingly, it is ORDERED that any applicant in the *Consolidated Arbitration Applications* that opposes consolidation of this matter with *Hanlon* or *Kurchner* shall file a brief responding to this order by September 28, 2021. If no responsive briefs are filed, the Commission will assume that no party opposes consolidation. Any party may file a reply to any responsive brief(s) by October 1, 2021. As the unnecessary duplication of identical arguments in multiple briefs is unlikely to promote adjudicatory efficiency, we encourage the parties to consider filing joint or consolidated briefs.<sup>5</sup>

The parties’ attention is directed to the most recent amendments to the Commission’s Rules of Practice, which took effect on April 12, 2021, and which include new e-filing requirements.<sup>6</sup>

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

Vanessa A. Countryman  
Secretary

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<sup>3</sup> See *Consolidated Arbitration Applications*, 2021 WL 933266, at \*2 (listing all currently consolidated cases in Exhibit A).

<sup>4</sup> Rule of Practice 421(b), 17 C.F.R. § 201.421(b).

<sup>5</sup> In the future, if FINRA requests the consolidation of a new matter with this proceeding, we encourage FINRA to file either two separate motions for consolidation—one in the new matter, and another in this proceeding—or a single motion covering both the new matter to be consolidated and the proceedings that have already been consolidated. We further encourage FINRA to state whether any of the relevant applicant(s) in the affected proceedings opposes consolidation.

<sup>6</sup> *Amendments to the Commission’s Rules of Practice*, Exchange Act Release No. 90442, 2020 WL 7013370 (Nov. 17, 2020), 85 Fed. Reg. 86,464, 86,474 (Dec. 30, 2020), <https://www.sec.gov/rules/final/2020/34-90442a.pdf>; *Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>. The amendments impose other obligations 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.