

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 95042 / June 3, 2022

Admin. Proc. File No. 3-20793

In the Matter of the Application of

PAUL RICHARD AQUITANIA

For Review of Action Taken by

FINRA

ORDER SCHEDULING BRIEFS

Paul Richard Aquitania, a brokerage customer of a FINRA member firm, filed a claim in FINRA's arbitration forum regarding a dispute about whether his account with the FINRA member firm had become overdrawn. FINRA denied the claim as ineligible for arbitration. It appears that Aquitania now seeks to appeal that denial to the Commission.

Rule of Practice 420(c) states that an application for review of action taken by a self-regulatory organization "should not exceed two pages in length."¹ Nonetheless, on March 9, 2022, Aquitania filed a six-page document styled as a "petition for review," to which he attached eleven exhibits comprising approximately 151 total documents. Since that filing, Aquitania has submitted multiple other unsolicited filings, attaching numerous exhibits and other documents. Aquitania's filings could be clearer. But we glean from them that Aquitania seeks to challenge FINRA's determination that his claim was ineligible for its arbitration forum.

We construe all of the filings that Aquitania has made to date as his application for review of FINRA's determination that his claim was ineligible for arbitration. FINRA filed a copy of the index to the record on April 8, 2022, pursuant to Rule 420(e) of the Rules of Practice.² Accordingly, it is ORDERED, pursuant to Rule of Practice 450(a), that a brief in

¹ 17 C.F.R. § 201.420(c).

² 17 C.F.R. § 201.420(e); *see also Paul Aquitania*, Exchange Act Release No. 94551, 2022 WL 969926 (Mar. 30, 2022) (granting FINRA's request for an extension of time to file the certified record). Rule of Practice 450(a) provides that we will issue a briefing schedule within

support of the application for review shall be filed by July 5, 2022, a brief in opposition shall be filed by August 4, 2022, and any reply brief shall be filed by August 18, 2022.

The parties are directed to Rule of Practice 450(b) and (c),³ which sets forth content requirements and length limitations for briefs; to Rules of Practice 150 through 153,⁴ which set forth the form and service requirements for briefs filed in this matter; and to the recent amendments to the Commission's Rules of Practice, which include new e-filing requirements.⁵ The parties are reminded that briefs that do not comply with these rules may be rejected.⁶ Failure to file a compliant brief in support of a petition for review may result in

21 days, "or such longer time as provided by the Commission," after the filing of the index to the record. We determined that a longer time was necessary here in light of Aquitania's filings.

³ 17 C.F.R. § 201.450(b) (requiring that briefs contain citations to the record, including references to specific page numbers, and citations to such statutes, decisions and other authorities that may be relevant); 17 C.F.R. § 201.450(c) (requiring that opening and opposition briefs not exceed 14,000 words and reply briefs not exceed 7,000 words); *see also* 17 C.F.R. § 201.450(d) (requiring any opening or opposition brief that exceeds 30 pages and any reply brief that exceeds 15 pages to include a certificate stating the number of words in that brief). Our Rules of Practice are available at <https://www.ecfr.gov/current/title-17/chapter-II/part-201>.

⁴ 17 C.F.R. §§ 201.150–153.

⁵ *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. And the amendments provide further requirements if a person cannot reasonably comply with the electronic filing requirements due to lack of access to electronic transmission devices. *Id.* at 86,478-79.

⁶ Rule of Practice 180(b), 17 C.F.R. § 201.180(b) (stating that the Commission or the hearing officer "may reject, in whole or in part, any filing that fails to comply with any requirements of these Rules of Practice or of any order issued in the proceeding in which the filing was made").

dismissal of this proceeding.⁷ And given Aquitania's filings so far, the parties are advised that we will not consider briefs or other filings of the parties beyond those specified in this order.⁸

As discussed above, if Aquitania fails to file a timely brief that complies with our rules, we may, without the opportunity for further briefing, dismiss his appeal. Other than a motion for an extension of time, we will consider the next document that Aquitania files with the Commission to be his opening brief, so long as such document complies with our Rules of Practice and is timely filed. That document must contain all of the arguments that Aquitania wants the Commission to consider.⁹ If FINRA files an opposition brief, we will consider whatever document that Aquitania subsequently files to be his reply brief, but only if such document complies with our Rules of Practice and is filed within the time required.

By the Commission.

Vanessa A. Countryman
Secretary

⁷ Rule of Practice 180(c), 17 C.F.R. § 201.180(c) (providing that the Commission may dismiss proceedings where respondent has failed “[t]o cure a deficient filing within the time specified”); *see also Paul Leon White, II*, Exchange Act Release No. 82199, 2017 WL 11421631, at *1 (Dec. 1, 2017) (dismissing petition for review based on failure to file a brief that complied with the Commission's word limitation), *aff'd*, 809 F. App'x 28 (2d Cir. Apr. 20, 2020).

⁸ *See Edward M. Daspin*, Exchange Act Release No. 86230, 2019 WL 2717085, at *2 & n.13 (June 28, 2019) (warning that Commission rules authorize the rejection of any filings that do not conform to their requirements) (citing Rule of Practice 180(b), 17 C.F.R. § 201.180(b)).

⁹ *See* Rule of Practice 450(c), 17 C.F.R. § 201.450(c) (“Incorporation of pleadings or filings by reference into briefs submitted to the Commission is not permitted.”).