

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96750 / January 25, 2023

Admin. Proc. File No. 3-21267

In the Matter of the Application of

NANCY KIMBALL MELLON

For Review of Action Taken by

FINRA

ORDER SCHEDULING BRIEFS AND EXTENDING THE BRIEFING SCHEDULE

On December 29, 2022, Nancy Kimball Mellon filed an application with the Commission for review of a FINRA decision barring her from associating with any FINRA member based on findings that she engaged in conduct that violated FINRA Rules. Pursuant to Commission Rule of Practice 420(e),¹ FINRA filed a copy of the index to the record on January 4, 2023. On January 6, 2023, FINRA filed a “Motion to Dismiss the Application for Review and Stay the Issuance of the Briefing Schedule.” In its motion, FINRA requests that the Commission dismiss Mellon’s application as “untimely” and that the Commission “stay the issuance of the briefing schedule while this dispositive motion is pending.”

Pursuant to Commission rule of Practice 450(a),² a briefing schedule should be issued within 21 days after receipt of the index to the record of a FINRA determination. We construe FINRA’s request for a stay to be a request to issue a briefing schedule pursuant to Rule 450(a) and extend it pursuant to Commission Rule of Practice 161.³ On March 18, 2020, the Commission issued an order providing that, pending further order of the Commission, reasonable

¹ 17 C.F.R. § 201.420(e).

² 17 C.F.R. § 201.450(a).

³ 17 C.F.R. § 201.161. Rule 161, which FINRA cited in support of its request for a stay, addresses extensions of time, postponements, and adjournments. *Id.*

requests for extensions of time will not be disfavored as stated in Rule of Practice 161.⁴ It appears appropriate to grant an extension for good cause shown.⁵

Accordingly, it is ORDERED, pursuant to Commission Rules of Practice 161 and 450(a), that the time for filing the briefs in this matter is extended until such time as the Commission rules on the motion to dismiss and that if the Commission denies the motion to dismiss, Mellon shall file a brief in support of the application for review within 30 days after such determination; FINRA shall file an opposition brief within 30 days after the date the opening brief is due; and Mellon shall file any reply brief within 14 days after the date the opposition brief is due.⁶ Pursuant to Rule 180(c) of the Rules of Practice, failure to file a brief in support of the application may result in dismissal of this review proceeding.⁷

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

Vanessa A. Countryman
Secretary

⁴ *In re Pending Administrative Proceedings*, Exchange Act Release No. 88415, 2020 WL 1322001 (Mar. 18, 2020), <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.

⁵ See Rule of Practice 161(a), 17 C.F.R. § 201.161(a) (requiring good cause showing for extensions).

⁶ As provided by Rule 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 Rule of Practice 450(b) and (c), 17 C.F.R. § 201.450(b) and (c), with respect to content and length limitations. The parties' attention is also directed to the e-filing requirements in the Rules of Practice. *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 such as a redaction and omission of sensitive personal information requirement. *Amendments to the Commission's Rules of Practice*, 85 Fed. Reg. at 86,465–81.

⁷ 17 C.F.R. § 201.180(c).