UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98124 / August 14, 2023

Admin. Proc. File No. 3-15701

In the Matter of the Application of

ROBERT MARCUS LANE

For Review of Disciplinary Action Taken By FINRA

ORDER DENYING MOTION FOR RECONSIDERATION

On February 13, 2015, we sustained FINRA disciplinary action against Robert Marcus Lane.[1] Our opinion found that, on eleven occasions between October 2006 and May 2007, Lane interpositioned two accounts that he owned and controlled between his firm and two of its retail customers and, as a result, charged those customers excessive and, in some cases, fraudulent markups on corporate bonds.[2] We determined that Lane's conduct violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and NASD Conduct Rules 2110, 2120, 2320(b), and 2440.[3] Based on such findings, we sustained FINRA's imposition of a bar on Lane's associating with any FINRA member firm and its order that Lane pay disgorgement of $218,582, plus prejudgment interest.[4]

More than eight years later, on April 15, 2023, Lane sent a letter to staff in the Division of Enforcement challenging the sanctions that had been imposed, specifically requesting "a review of the amount owed" and that "the disgorgement be vacated." In support, Lane argued that he had not charged excessive markups to any customers and asserted that no customer had accused him of wrongdoing. He stated that he had received a voicemail in March 2022 from the son of a now-deceased customer who believed that Lane had not engaged in any wrongdoing.

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1 *Robert Marcus Lane*, Exchange Act Release No. 74269, 2015 WL 627346 (Feb. 13, 2015). We also sustained FINRA action against a co-applicant, Jeffrey Griffin Lane, who is not a party to the current motion.

2 *Id.* at *2–3, *6.

3 *Id.* at *6–11 & n.20.

4 *Id.* at *6–11.

Exchange Act Section 19(d) authorizes Commission review of specified actions of self-regulatory organizations, including the FINRA disciplinary action at issue here.[5] In our 2015 opinion, we rejected the various arguments that Lane made at that time regarding sanctions, concluding, among things, that there were "no mitigating circumstances that warrant[ed] reducing the sanctions FINRA imposed" and that it was irrelevant that customers had not complained about the markups.[6] Lane seeks now to revisit those determinations, but does not identify, or seek review of, any action by FINRA that occurred after our 2015 opinion. Accordingly, we construe Lane's letter as a motion to reconsider that decision, which we deny for non-compliance with applicable filing requirements.[7]

Commission Rule of Practice 470 permits a party "aggrieved by a determination in a proceeding [to] file a motion for reconsideration of a final order," but provides that the motion "shall be filed within 10 days after service of the order."[8] Lane does not dispute that he was timely served with our 2015 opinion and order. As a result, the period for filing a motion for reconsideration expired more than eight years before his filing here. Although a party may move to extend the time to file a motion for reconsideration, such a motion must also be made within 10 days of service of the challenged order.[9] Lane did not seek an extension of time during that 10-day period. Lane's motion for reconsideration of our 2015 decision is thus untimely.[10]

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5 15 U.S.C. § 78s(d).

6 *Lane*, 2015 WL 627346 at *9, *18.

7 We do not address Lane's filing to the extent that he seeks relief from FINRA, such as his apparent request that a federal tax refund be applied to hearing costs incurred during the FINRA proceeding underlying this appeal. *See, e.g.*, *MFS Sec. Corp. v. SEC*, 380 F.3d 611, 622 (2d Cir. 2004) (recognizing that if persons aggrieved by SRO action were "free to bring their SRO-related grievances before the SEC without first exhausting SRO remedies, the self-regulatory function of SROs could be compromised"). Nor do we address Lane's filing to the extent that he seeks to raise new arguments for our overturning FINRA's decision that he did not raise in his original appeal. *See, e.g.*, *Richard G. Cody*, Exchange Act Release No. 65235, 2011 WL 3840536, at *2 & n.8 (Aug. 31, 2011) (denying request for reconsideration, in part, on grounds that party raised new arguments that could have been raised in his original brief).

8 17 C.F.R. § 201.470.

9 *Id.* § 201.470(b).

10 *See Keith Patrick Sequeira*, Exchange Act Release No. 94472, 2022 WL 823505, at *2 (Mar. 18, 2022) (denying as untimely motion for reconsideration filed approximately eighteen months after order became final); *Gordon Brent Pierce*, Exchange Act Release No. 77643, 2016 WL 1566396, at *2–3 (Apr. 18, 2016) (denying as untimely motions for reconsideration filed six years and one year after orders became final).

To the extent that Lane seeks to justify his untimely motion for reconsideration based on the March 2022 voicemail referenced in his letter, we note that Rule 470 makes no provision for late filings where an extension has not been granted, unlike, for example, Commission Rule 420, which permits extension of the deadline for appealing self-regulatory organization actions based on "a showing of extraordinary circumstances." 17 C.F.R. § 201.420(b). In any event, Lane failed to explain why he could not have obtained the information in the voicemail earlier or have

It is therefore ORDERED that Robert Marcus Lane's motion for reconsideration is denied.

By the Commission.

Vanessa A. Countryman
Secretary

complied with Rule 470's deadline, nor did Lane explain why he waited more than a year after receiving the voicemail to seek reconsideration of the 2015 opinion.