

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98435 / September 19, 2023

Admin. Proc. File No. 3-20636

In the Matter of the Application of

WILLIAM JOSEPH KIELCZEWSKI

For Review of Disciplinary Action Taken by

FINRA

ORDER GRANTING MOTION TO SUBMIT SUPPLEMENTAL BRIEFING

On August 15, 2023, William Joseph Kielczewski filed a motion requesting leave to submit supplemental briefing addressing the constitutionality of the process by which the Financial Industry Regulatory Authority (“FINRA”) disciplined him. Kielczewski asked for leave to address (1) whether the process used to appoint FINRA hearing officers violates the U.S. Constitution’s Appointments Clause; (2) whether the process to remove FINRA hearing officers violates the Constitution’s separation of power guarantees; (3) whether the Constitution’s due process and jury trial requirements apply to this proceeding; and (4) whether, because “FINRA’s disciplinary scheme relies on an unconstitutional structure” this proceeding “should be vacated or, at a minimum, stayed pending resolution in *Alpine [Securities Corp. v. Financial Industry Regulatory Authority]*.”¹ FINRA opposes Kielczewski’s motion.

We have determined to grant Kielczewski’s request for additional briefing.² Accordingly, it is ORDERED that Kielczewski file a supplemental brief, not to exceed twenty-five double-spaced pages, addressing the issues that he raises in his motion, by October 17, 2023.

¹ No. 23-5129, 2023 WL 4703307 (D.C. Cir. July 5, 2023) (granting emergency injunction against FINRA expedited enforcement proceeding based on Constitutional challenge).

² This order should not be construed as expressing any view as to the merits of the parties’ arguments, or whether those arguments have been properly exhausted before FINRA.

FINRA shall file its response, also not to exceed twenty-five double-spaced pages, by November 14, 2023.

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

Vanessa A. Countryman
Secretary