

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 78833 / September 13, 2016

Admin. Proc. File No. 3-17406

In the Matter of the Application of

KEITH D. GEARY

For Review of Action Taken by

FINRA

ORDER DENYING STAY AS
MOOT

Keith D. Geary (“Geary”) appeals from a FINRA order finding that he permitted his firm to operate a securities business while it lacked the required net capital. FINRA suspended him in all capacities for 30 business days, barred him from acting in any principal or supervisory capacity with any FINRA member firm, and directed him to pay \$20,000 and hearing costs.¹ On August 18, 2016, Geary filed a “motion to stay sanctions” pending his appeal to the Commission. Geary’s motion seeks a stay of the “30 business day suspension in all capacities . . . and payment of a \$20,000 fine and hearing costs.”² Although Geary acknowledges that FINRA notified him that the suspension, fine, and hearing costs would be stayed pending appeal to the Commission, Geary states that he submits his motion for a stay as a “precaution.” FINRA opposes Geary’s motion as moot. For the reasons below, we agree and deny Geary’s motion.

FINRA Rule 9370 provides that “[t]he filing with the SEC of an application for review by the SEC shall stay the effectiveness of any sanction, other than a bar or an expulsion, imposed in a decision constituting a final disciplinary action of FINRA.”³ In its opposition to Geary’s motion, FINRA states that “FINRA Rule 9370 uncontrovertibly provides that all sanctions, other than a bar, imposed in a final FINRA disciplinary action . . . are stayed upon the filing with the

¹ See *Keith D. Geary*, Complaint No. 2009020465801, 2016 WL 4036080 (NAC July 20, 2016).

² Geary does not seek a stay of, and we do not address, FINRA’s order barring him from acting in any principal or supervisory capacity.

³ See FINRA Rule 9370(a); see also, e.g., *Anthony A. Grey*, Exchange Act Release No. 75839, 2015 WL 5172955, at *12 n.68 (Sept. 3, 2015) (observing that Grey’s application for Commission review stayed FINRA’s order that he be suspended in any capacity for 18 months).

Commission of an application for review.” And in its letter attaching its final disciplinary decision, FINRA stated explicitly that the “filing with the SEC of an application for review shall stay the effectiveness of any sanction except a bar or expulsion.” As discussed above, Geary has filed an application for review with the Commission. We therefore agree with FINRA that Geary “already possesses the specific relief he seeks” and deny Geary’s motion as moot.

Accordingly, IT IS ORDERED that Keith D. Geary’s August 18, 2016 motion for a stay of sanctions FINRA imposed pending Commission review of his appeal is denied.

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

Brent J. Fields
Secretary