

RESPONSE BRIEF TO UNITED STATES SECURITIES & EXCHANGE COMMISSION

Application of John Joseph Plunkett

In response to FINRA BRIEF OF APRIL 23, 2014



Administrative Proceeding File No. 3-14810r

May 5, 2014

SECOND CAUSE OF ACTION – LACK OF RESPONSE TO AN 8210 INFORMATION REQUEST

FINRA has previously admitted in their brief to the NAC due to the Remand from the Commission to requesting the same information several times via their overlapping 8210 Requests. They again state this in their 4.23.14 brief to the Commission. FINRA also admits as pointed out by the Commission in its' Remand to NAC that I had always responded to all prior 8210 Requests on numerous occasions. In the FINRA brief of 4.23.14 they state that some responses were late. I must point out that all 8210 Responses which were delivered past the original due date were filed within the FINRA approved extension date. Emails granted the extension dates in all circumstances.

The sanction guidelines for violation of an 8210 Request for Information are just that, guidelines, which implies flexibility due to the circumstances. The Commission in their Remand to the NAC for the Second Cause of Action resulted in a reduction in sanctions from a bar and fifty thousand dollar fine to a 6 month suspension and a twenty thousand dollar fine. The recent new admission by FINRA that they had requested the same information in several overlapping requests caused confusion and misunderstanding on my part since having previously submitted the requested information.

Based upon this new admission by FINRA I ask the Commission to totally eliminate the sanctions in the Second Cause of Action of not responding to an 8210 Request for Information.

While FINRA used the Official Record going back over 10 years to discuss my disciplinary history, and also referenced many years of 8210 requests, FINRA contends in their 4.23.14 brief

to the Commission that the Official Record, which I discuss in my 3.24.14 brief to the Commission, should only pertain to this specific Record.

I contend as stated in my 3.24.14 brief to the Commission that the Official Record must include the Official Record of all of the proceedings that I mention. The documents in these records provide clarity, thoroughness, and understanding which I am entitled to and the Commission seeks.

FINRA states in their 4.23.14 brief that I did not respond in a timely manner for this review by the Commission. My response was in a timely manner as evidenced by the documents delivered to me of 1.29.14 in which the Securities and Exchange Commission acknowledged Receipt of Request for Review, and of 2.21.14 ordering briefs on the appeal.

#### FIRST CAUSE OF ACTION – BOOKS AND RECORDS

My brief of 3.24.14 to the Commission had several documents attached which provided NEW and MATERIAL information for the Commission to consider. The new information only recently became available and therefore could not have been presented previously. My brief of 3.24.14 to the Commission indicates these dates, the most recent being the George Milter sentencing in Federal Court in Manhattan on 3.14.14.

The information is material in that it clearly demonstrates that the Orlov Brothers (the owners of Lempert) and George Milter (the nephew of the owners) were operating a criminal enterprise having stolen millions of dollars from European investors and were in the process of continuing to steal vast sums of money from US customers. This is the reason why we removed the books and records – to prevent the theft of money and personal information from U.S. customers, which was about to be implemented immediately! This new information confirms the on-going criminal activities which I have contended all along. The Federal Bureau of Investigation was investigating these criminals since 2005!

George Milter forgeries were entered into the record during the Emerald vs. Lempert arbitration, and a European customer of Lempert Europe who had several hundred thousand dollars stolen by these criminals (his name was Maurzerin I think) had sent a complaint letter directly to the Securities and Exchange Commission office in Washington D.C. This was also entered into the record at the Emerald vs Lempert arbitration.

My brief to the Commission of 3.24.14 on page 11 states specifically what the US Attorney and the FBI stated that George Milter was doing. This proves what I have stated was actually occurring and provides significant additional information that should be considered regarding the totality of circumstances, and the complexity and seriousness of the situation which confronted me.

I petition the Commission to waive any and all sanctions for the Second Cause of Action in light of the new information presented to them.

I further request the Commission to grant the remedies sought in my 3.24.14 brief.

I thank you for your time, thoughtfulness, and conscientious examination and review.

Sincerely,

John Joseph Plunkett