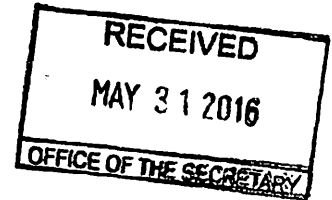


UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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In the Matter of the Application of :  
 :  
Bruce Meyers and Meyers Associates, L.P. :  
 :  
For Review of Action Taken by :  
 :  
 :  
FINRA :  
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File No. 3-17254

**HARD COPY**



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**REPLY BRIEF IN FURTHER SUPPORT OF  
APPLICANTS' MOTION TO STAY THE DECISION  
OF THE FINRA NATIONAL ADJUDICATORY COUNCIL**

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*Attorneys for Applicants*

## INTRODUCTION

Applicants, Meyers Associates, L.P. (the “Firm”) and Bruce Meyers (“Meyers”) (sometimes referred to herein collectively as “Applicants”) respectfully submit this reply memorandum in further support of their application to the Securities and Exchange Commission for an Order staying the effectiveness of the decision by the Financial Industry Regulatory Authority’s (“FINRA”) National Adjudicatory Council (“NAC”) dated May 9, 2016 (the “NAC Decision”) which determined that: 1) Bruce Meyers, an associated person of a FINRA-member firm is statutorily disqualified pursuant to Sections 3(a)(39) and 15(b)(4)(H)(i) of the Securities Exchange Act of 1934, and 2) denying the Firm’s MC-400 Membership Application (the “MC-400 Application”) to permit Meyers to continue to associate with the Firm in any capacity.

Unless otherwise defined herein, all terms shall have the same meaning as defined in Applicants’ Memorandum of Law in Support of this Motion, dated May 19, 2016. Cases and legal authority have been thoroughly briefed in the Applicant’s pre-hearing briefs and the memorandum of law in support of this motion dated May 19, 2016 and will not be repeated here. A short reply to the Applicants’ motion follows.

## ARGUMENT

### APPLICANTS HAVE ESTABLISHED THAT A STAY IS WARRANTED

#### **(A) Applicants Are Likely to Succeed on the Merits**

- 1. FINRA Erroneously Concluded that the 2015 Connecticut Order Was the Functional Equivalent to a “Bar” that Rendered Meyers Statutorily Disqualified Because FINRA Misinterpreted the Definition of Statutory Disqualification**

Applicants’ disciplinary and customer complaint history have no bearing on the analysis as to whether the Consent Order entered into by Applicants and the Connecticut Department of Banking, dated March 24, 2015 (the “Order”) forms the basis for statutory disqualification.

FINRA has consistently tried to use that history as justification for their interpretation. While Applicants concede that the disciplinary history is relevant to the determination as to whether the Firm can properly supervise Meyers if he is properly deemed to be statutorily disqualified, the interpretation as to whether the Order forms a proper basis for SD must stand on its own.

The Firm has faced the challenge of many small retail firms with limited resources in a changing regulatory environment. With each disciplinary matter or customer complaint, Meyers and the Applicants have satisfied the sanctions or judgements imposed. Contrary to FINRA's assertions, the Applicants have sought to make improvements if not simply to stop the endless onslaught of regulatory inquiries, fines and the legal fees associated with them. However, the determination of statutory disqualification in the context of the Order is not an opportunity for FINRA to revisit Meyers' disciplinary history to extract a bar when those matters did not warrant such a sanction.

**2. FINRA Erroneously Prohibited Applicants from Introducing Testimony Relevant to the Intent of Applicants and the Connecticut Department of Banking when Entering in to the 2015 Connecticut Order**

It is simply astonishing given the record that FINRA faults Applicants for not submitting the Affidavit of Nathan Pereira in support of the pre-hearing briefs. This is another example of FINRA playing fast and loose with its own rules when it suits<sup>1</sup>. The record is clear that the parties submitted pre-hearing legal briefs only, there was never any indication that evidence would be considered prior to the hearing, the summary disposition rule applicable to enforcement proceedings was never cited and does not apply, and that prior to and at the beginning of the

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<sup>1</sup> Counsel for Applicant had many conversations with the Office of General Counsel during the course of the eligibility proceeding to understand the process in the absence of a full set of rules. Even whether the submission of the pre-hearing brief was permitted was discussed with the General Counsel's Office. To now use the absence of procedural rules as a weapon is inherently unfair. Additionally, Applicants never sought an adjournment of the hearing in order to submit briefs. Based on the timing of the briefing and Applicants' request to submit a reply brief, the Hearing Panel made the determination to adjourn the Hearing.

hearing, the Panel made it clear that it would permit the introduction of evidence on the matter. Applicant leaves it to the Commission to determine if Applicants were on notice at any time that they should have submitted affidavits in support of the legal arguments. To base this case on Applicants' failure to submit the Affidavit of Nathan Pereira sometime in the past would be another extreme example of FINRA's gamesmanship in trying to rig the process to achieve its desired result.

Contrary to FINRA's argument, Applicant has never once conceded that the Pereira affidavit is irrelevant. Obviously Applicant fought hard to admit the evidence because it was relevant and consistent with precedent cited in its pre-hearing briefs and the memorandum in support of this motion.

**(B) Meyers Will Suffer Irreparable Harm Without a Stay**

The demise of the Firm is far from speculative at this point. While Meyers was hopeful at the time of the hearing that contingency plans could be put in place in a timely manner, that has become far more complicated by factors outside of Meyers' control. Mr. Meyers has made regular capital contributions to support the Firm (not occasional as cited by FINRA). In his absence, the Firm would likely close.

Furthermore, in the absence of a stay, Meyers' application for review of the NAC Decision may become moot. There would simply be no firm for him to return to in the event that his application is successful.

**(C) No Person Will Suffer Substantial Harm as a Result of the Stay**

As discussed in Meyers Affidavit, his activities with the investing public are already minimal. Any harm to the investing public is entirely speculative.

**(D) A Stay Is In the Public Interest**

A stay is in the public interest to demonstrate to the industry that the Commission has a fair process in place and will not allow FINRA to misinterpret Commission rules and its own rules in the pursuit of an unfair outcome. Maintaining the *status quo* is an essential concept in the context of preliminary injunctions and is itself in the public interest to recognize longstanding legal concepts.

### **Conclusion**

For the foregoing reasons, Meyers Associates, L.P. and Bruce Meyers hereby move the Securities and Exchange Commission for a stay of the May 9, 2016 FINRA NAC Decision that Bruce Meyers is subject to statutory disqualification and cannot continue to associate with a registered broker-dealer, until the Commission reviews and rules on the Applicants' appeal of the NAC Decision to the Commission.

Dated: May 27, 2016

Respectfully Submitted,

Bruce Meyers and Meyers Associations, L.P. by:

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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

RECEIVED  
MAY 31 2016  
OFFICE OF THE SECRETARY

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In the Matter of the Application of :  
Bruce Meyers and Meyers Associates, L.P. :  
For Review of Action Taken by :  
FINRA :  
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REPLY AFFIDAVIT OF BRUCE  
MEYERS IN SUPPORT OF  
OF MOTION FOR STAY

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

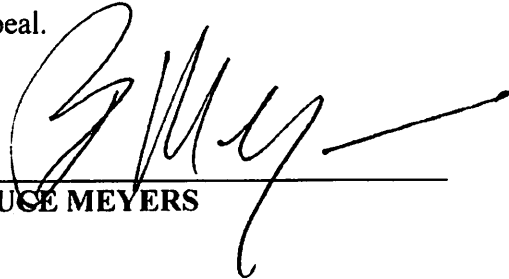
I, **BRUCE MEYERS**, hereby state under penalty of perjury that the following statements are true and accurate to the best of my knowledge, information, and belief:

1. I respectfully submit this reply affidavit in the above-referenced matter in further support of my Motion for a Stay of the FINRA National Adjudicatory Council Decision of May 9, 2016 (The "NAC Decision") determining that I am subject to a Statutory Disqualification as a result of a Consent Order, entered by the Connecticut Department of Banking (the "Department"), and denying my application to remain registered as an associated person of a FINRA member firm.
2. I am the chief executive officer and 90% owner of Meyers Associates, L.P. ("the Firm"). The Firm has been registered with FINRA as a member firm since April 1993 and currently services 14,869 customer accounts.
3. As noted in my affidavit filed on May 19, 2016, if I am required to immediately resign from the Firm as a result of this statutory disqualification before the Commission has an opportunity to hear and decide my appeal to the NAC Decision, which was filed on May

19, 2016, I believe that my abrupt absence from the Firm will not only cause immediate, irreparable harm to the Firm, its employees, and its registered representatives, but also to its many thousands of customers.

4. I am concerned that the Firm's 14,869 customer accounts will be severely disrupted because no one currently associated with the Firm can conduct the day-to-day business management functions that I perform and because I believe that most or all of the Firm's registered representatives will resign from the Firm as a result of my required resignation. Also, my plans for finding a suitable successor to assume the duties and supervisory functions of chief executive officer have proven more difficult than originally anticipated. I believe this difficulty in finding a suitable successor will further harm customers.
5. I also believe that, as a result of the detrimental effect my immediate resignation would have on the Firm and its employees, the Firm's customers will lose access to their accounts and be restricted- at least for some period of time-from conducting securities transactions in their brokerage accounts leading to potential and unnecessary anxiety, inconvenience and potential financial loss.
6. Additionally, through my 90% ownership interest in Meyers Securities Corp., I made capital contributions to the Firm of \$1,446,500 in 2015 and \$215,000 in 2016 in order to meet expenses and maintain compliance with minimum net capital rules. I fear that divesting my ownership interest in the Firm, as I must if I am forced to resign from the Firm, will further expose customers to financial loss and disrupt the customers' ability to access their accounts and process transactions because no one at the Firm has the ability to purchase my ownership interest or make the necessary capital contributions in the event of a capital shortfall, such as the ones I made in 2015 and 2016.

7. These potentially disastrous results to the Firm and its customers can be avoided if the Commission will grant a Stay of the NAC's decision until it has the opportunity to fully and completely review our appeal on the merits and make a decision on the issues raised therein.
8. I respectfully request that the Commission issue a Stay of the NAC Decision until it has the opportunity to fully review this matter on appeal.

  
\_\_\_\_\_  
BRUCE MEYERS

Subscribed and sworn to before me on this  
26<sup>th</sup> day of May, 2016.



\_\_\_\_\_  
Notary Public





**CERTIFICATE OF SERVICE**

I hereby certify that on May 27, 2016, I caused a true and correct copy of the foregoing Reply Memorandum of Law in Further Support of Motion for Stay and accompanying Affidavit of Bruce Meyers, to be served upon the following parties via Federal Express overnight delivery, addressed to:

Ms. Lynn M. Powalski  
Deputy Secretary  
Office of the Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Andrew J. Love, Esq.  
Office of General Counsel  
Financial Industry Regulatory Authority  
1735 K Street, N.W.  
Washington, D.C. 20006

  
\_\_\_\_\_  
CHELSEY DAVIS