

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 81665 / September 20, 2017

Admin. Proc. File No. 3-18108

In the Matter of the Application of  KENNETH J. KOLQUIST  For Review of Action Taken by  FINRA
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ORDER DIRECTING THE FILING OF BRIEFS

On August 1, 2017, Kenneth J. Kolquist filed an application requesting relief from action of the Financial Industry Regulatory Authority (“FINRA”) dated August 1, 2016, barring him from associating with any FINRA member firm pursuant to FINRA Rule 9552.

Kolquist’s application purported to seek relief under Rule 193 of the Commission’s Rules of Practice, which “governs applications to the Commissions by certain persons, . . . barred by *Commission order* from association with” certain securities industry entities, “for consent to become so associated.”<sup>1</sup> However, the Commission has not issued an order barring Kolquist from associating with any of the entities identified in that rule.<sup>2</sup> Kolquist’s application also stated that he was “not interested in getting back into the securities industry,” and asked that the Commission “consider [his] case and consider [his] bar being lifted.”

Kolquist’s filing raises a question as to whether Rule 193 is the appropriate procedural basis for any review by the Commission in light of other possible bases for review, such as Rule 420(a) of the Commission’s Rules of Practice. Rule 420(a) authorizes the filing of applications

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<sup>1</sup> Rule of Practice 193, 17 C.F.R. § 201.193 preliminary note (emphasis added).

<sup>2</sup> Cf. *Eric David Wagner*, Exchange Act Release No. 79008, 2016 WL 5571629, at \*4 n.39 (Sept. 30, 2016) (explaining that a “Rule 193 application . . . has no bearing on [an] application for review of FINRA action”).

for review of certain self-regulatory organization actions, including “[b]ar[s] from association.”<sup>3</sup> Rule 420(b) specifies that such applications must be filed “within 30 days,” and that the Commission “will not extend this 30-day period, absent a showing of extraordinary circumstances.”<sup>4</sup>

Consequently, the parties are asked to submit briefs identifying the most appropriate basis for Commission review of this matter, discussing whether Kolquist’s application meets the relevant standard articulated in the applicable rule and, if it meets the standard articulated in Rule 420(a), whether it should be dismissed as untimely pursuant to Rule 420(b).

Accordingly, IT IS ORDERED that the parties file briefs on these issues, not to exceed ten pages, by Wednesday, October 4, 2017. Responses to initial briefs, not to exceed five pages, may be filed by Wednesday, October 11, 2017, and no further briefs may be filed without seeking leave from the Commission.<sup>5</sup>

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

Brent J. Fields  
Secretary

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<sup>3</sup> Rule of Practice 420(a), 17 C.F.R. § 201.420(a); *see also* 17 C.F.R. § 240.19d-3 (“Applications to the Commission for review of any . . . bar from association . . . shall be made pursuant to Rule 420 of the Commission’s Rules of Practice.”).

<sup>4</sup> Rule of Practice 420(b), 17 C.F.R. § 201.420(b).

<sup>5</sup> Attention is called to Rules of Practice 150–153, 17 C.F.R. § 201.150–153, with respect to form and service.