

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 85436 / March 28, 2019

Admin. Proc. File No. 3-18553

In the Matter of the Application of

MICHAEL PATRICK NANTO

For Review of Action Taken by

FINRA

ORDER DISMISSING APPLICATION FOR REVIEW

On May 24, 2018, FINRA barred Michael Patrick Nanto from associating with any FINRA member in any capacity. FINRA took the action based on FINRA Rule 9552, which authorizes FINRA to institute expedited proceedings where a member or associated person has failed to produce documents or information requested under FINRA Rule 8210. On June 13, 2018, Nanto filed an application for review with the Commission challenging FINRA's decision.

On August 7, 2018, FINRA moved to dismiss Nanto's application for a failure to exhaust administrative remedies before FINRA. Although Nanto did not file a brief opposing FINRA's motion, he sent the Commission a letter dated August 14, 2018, acknowledging that he had received FINRA's motion but asserting that he did not "have copies of everything [FINRA] said they sent, have sent, or I have sent." On December 12, 2018, the Commission ordered FINRA to provide Nanto with a copy of the certified record within 14 days and directed him to respond to FINRA's motion to dismiss within 30 days of service of the record.¹

¹ *Michael Patrick Nanto*, Exchange Act Release No. 84808, 2018 WL 6523112, at *2 (Dec. 12, 2018).

FINRA provided Nanto with a copy of the record on December 14, 2018, making his response to the motion to dismiss due no later than January 14, 2019.² After FINRA did not receive a brief in opposition to its motion to dismiss from Nanto, it wrote to Nanto on January 23, 2019, to inquire whether he had filed one with the Commission. On February 21, 2019, after Nanto failed to respond to FINRA's letter or file an opposition brief, FINRA moved to dismiss his appeal as abandoned. Nanto also failed to respond to that motion.

It appears that Nanto has abandoned his appeal. Under Rule of Practice 180(c), the Commission may dismiss a case "if a person fails to make a filing required under these Rules of Practice."³ Here, to oppose FINRA's motion to dismiss, Nanto was required to file a brief in opposition by January 14, 2019. The Office of the Secretary should have by now received any brief that Nanto intended to timely file. FINRA's correspondence and motion to dismiss put Nanto on notice that his opposition brief had not been received by the deadline specified in the Commission's December 12, 2018 order. Nanto not only failed to file a brief opposing FINRA's initial motion to dismiss but also failed to respond to FINRA's subsequent motion to dismiss his appeal as abandoned. Under the circumstances, it is appropriate to dismiss this appeal.⁴

Accordingly, IT IS ORDERED that the application for review of Michael Patrick Nanto is dismissed.

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

Vanessa A. Countryman
Acting Secretary

² See Rule of Practice 160(a), 17 C.F.R. § 201.160(a) (providing that if a deadline falls on a weekend or holiday, "the period runs until the end of the next day that is not a Saturday, Sunday, or Federal legal holiday").

³ Rule of Practice 180(c), 17 C.F.R. § 201.180(c).

⁴ See, e.g., *Steven Neil Barbot*, Exchange Act Release No. 69263, 2013 WL 1290210, at *1 (Apr. 1, 2013) (dismissing application for review as abandoned where the applicant failed to file brief or respond to FINRA's motion to dismiss appeal as abandoned); *William J. Murphy*, Exchange Act Release No. 66433, 2012 WL 8702962, at *2 (Feb. 21, 2012) (same).