

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 88038 / January 24, 2020

Admin. Proc. File No. 3-18894

In the Matter of the Application of
THOMAS CHRISTOPHE PRENTICE
For Review of Action Taken by
FINRA

ORDER SCHEDULING BRIEFS

Thomas Christophe Prentice filed an application for review of a FINRA decision denying his request to use FINRA’s arbitration forum for a claim to expunge a prior adverse arbitration award from his Central Registration Depository record. Prentice sought arbitration for two claims—one to expunge a prior adverse arbitration award and one to expunge a prior customer complaint. FINRA allowed the claim to expunge the prior customer complaint to proceed to arbitration, but determined that the claim to expunge the prior adverse arbitration award was ineligible for expungement in FINRA’s arbitration forum. According to the award in the record with respect to the claim to expunge the prior customer complaint, during the arbitration of that claim, Prentice asked the arbitrator to expunge the prior adverse arbitration award as requested in his other claim, despite FINRA’s “decision to deny the forum as to” that request. The arbitrator “denied” Prentice’s motion as lacking “compelling justification.”

At this time, the Commission would benefit from briefing on the following issues:

- Did Prentice ask the arbitrator to consider and rule on his claim to expunge the prior adverse arbitration award despite FINRA’s determination that the claim was ineligible for arbitration?¹
- In denying the claim as lacking “compelling justification” did the arbitrator deny expungement relief as to that claim on the merits, or instead decline to consider the claim?

¹ We direct the parties’ attention to Rules 154 and 452 of the Rules of Practice governing motions for leave to adduce additional evidence. 17 C.F.R. § 201.154, .452.

- How does the arbitrator’s decision bear on whether Prentice accessed the arbitration service, or was prohibited or limited in his access to that service? What is the relevance of the Commission’s decision in *John Boone Kincaid*?²

Accordingly, IT IS ORDERED that Prentice may file a brief, not to exceed 14,000 words, addressing the issues set forth above by February 14, 2020. FINRA may file a response brief, not to exceed 14,000 words, by March 6, 2020. Prentice may file a reply brief, not to exceed 7,000 words, by March 13, 2020. No briefs in addition to those specified above may be filed without leave of the Commission.³

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

Vanessa A. Countryman
Secretary

² See *John Boone Kincaid III*, Exchange Act Release No. 87384, 2019 WL 5445514 (Oct. 22, 2019) (concluding that FINRA action giving effect to arbitrator’s award was not a “denial of access” to arbitration, and thus there was no jurisdiction under Section 19(d), where the applicant received a ruling from the arbitrator denying the requested relief and sought to challenge the ruling as an erroneous application of FINRA’s rules).

³ Attention is called to Rules of Practice 150-153, 17 C.F.R. § 201.150-153, with respect to form and service.