

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 89611 / August 19, 2020

Admin. Proc. File No. 3-19019

In the Matter of the Application of  
  
TIMOTHY ARTHUR VANDERVER III  
  
For Review of Action Taken by FINRA

ORDER REQUESTING ADDITIONAL WRITTEN SUBMISSIONS

Timothy Arthur Vanderver III filed an application for review of FINRA action denying his request to use FINRA’s arbitration forum to determine whether to expunge from his Central Registration Depository records information about a customer dispute. Vanderver filed a claim against Stanford Group Company, a FINRA member firm that is currently in receivership, seeking to expunge from CRD information about two disputes brought by Vanderver’s customers, one of which is listed on CRD as “pending” and the other as “closed/no action.” FINRA determined that the claim was ineligible for arbitration, but did not explain why.

As the Commission has jurisdiction over this appeal, the parties should address the merits.<sup>1</sup> In addition to any other issues the parties find relevant to the Commission’s review under Section 19(f) of the Securities Exchange Act of 1934,<sup>2</sup> the Commission would benefit from additional briefing on the following issues:

- Exchange Act Section 15A(h)(2) provides that any determination to prohibit or limit a person’s access to services shall be supported by a statement setting forth the specific grounds on which the . . . prohibition or limitation is based.”<sup>3</sup> Did FINRA issue

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<sup>1</sup> See *Consolidated Arbitration Applications*, Exchange Act Release No. 89495, 2020 WL 4569083 (Aug. 6, 2020) (holding that the FINRA action Vanderver challenges here—denying a request to use FINRA’s arbitration forum on the ground that an expungement claim is ineligible for arbitration—is a prohibition of access to SRO services for which the Commission has jurisdiction under Exchange Act Section 19(d)(2)). This order express no view on the merits of Vanderver’s appeal.

<sup>2</sup> 15 U.S.C. § 78s(f).

<sup>3</sup> 15 U.S.C. § 78o-3(h)(2).

Vanderver a supporting “statement setting forth the specific grounds” for its determination as provided for by Section 15A(h)(2)?

- What were FINRA’s grounds for determining that Vanderver’s claim was ineligible for arbitration, and was that prohibition of access consistent with FINRA’s rules?
- Can the Commission discharge its review function based on the record otherwise before it, or should it instead remand for FINRA to issue Vanderver a supporting statement as provided for by Section 15A(h)(2) if one was not already provided to Vanderver?<sup>4</sup>

Accordingly, IT IS ORDERED that Vanderver may file a brief, not to exceed 14,000 words, addressing the issues set forth above by September 18, 2020. FINRA may file a response brief, not to exceed 14,000 words, by October 19, 2020. Vanderver may file a reply brief, not to exceed 7,000 words, by November 2, 2020. No briefs in addition to those specified above may be filed without leave of the Commission.<sup>5</sup>

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

Vanessa A. Countryman  
Secretary

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<sup>4</sup> See, e.g., *ABN AMRO Clearing Chicago LLC*, Exchange Act Release No. 83849, 2018 WL 3869452, at \*9 n.76 (Aug. 15, 2018); *Eagle Supply Grp., Inc.*, Exchange Act Release No. 39800, 1998 WL 133847, at \*4 (Mar. 25, 1998).

<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, as well as the Commission’s March 18, 2020 order regarding the filing and service of papers, which provides that pending further order of the Commission parties to the extent possible shall submit all filings electronically at [apfilings@sec.gov](mailto:apfilings@sec.gov). See *Pending Administrative Proceedings*, Exchange Act Release No. 88415, <https://www.sec.gov/litigation/opinions/2020/33-10767.pdf>.