

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C.**

In the Matter of the Application of

David E. Jennings

For Review of Action Taken By

FINRA

File No. ____

APPLICATION FOR REVIEW

On December 8, 2021, Mr. David E. Jennings (“Jennings”), a resident of Richmond, Virginia, submitted a Statement of Claim to the Financial Industry Regulatory Authority, Inc. (“FINRA”) Office of Dispute Resolution requesting a hearing for the expungement of a customer dispute disclosure, Occurrence Number 1124930 (the “Occurrence”), from his Central Registration Depository (“CRD”) record. This case was assigned FINRA Case No. 21-02991. In the Statement of Claim, Mr. Jennings expressly stated that the underlying complaint resulted in an arbitration award where Mr. Jennings and the co-respondent were found jointly and severally liable. FINRA accepted Mr. Jennings’ Statement of Claim into its arbitration forum and allowed the case to proceed.

Then on August 9, 2022, the day before the final hearing was scheduled to take place, and after the parties had engaged in significant work and expended significant resources in preparing the case for arbitration, FINRA administratively postponed the hearing without any explanation. On August 10, 2022, FINRA submitted a notice (“Notice”) stating that it denied Mr. Jennings access to the FINRA forum because it “overlooked” that the original complaint resulted in an award. FINRA determined that

Mr. Jennings's expungement claim was "ineligible" for arbitration pursuant to FINRA Rule 12203 or 13203.

The Commission has jurisdiction to review this case, as FINRA prohibited or limited Mr. Jennings's access to a fundamentally important service that it offers. *See*, Consolidated Arbitration Applications, Exchange Act Release No. 89495, 2019 WL 6287506 (August 6, 2020).

There is no codified rule barring the arbitration for expungement of disclosures arising from a prior adverse award. Moreover, FINRA Rules 12203 or 13203 do not provide for forum denial in this situation, nor did FINRA provide accurate reasoning for its denial. Rules 12203(a) and 13203(a) state:

The Director may decline to permit the use of the FINRA arbitration forum if the Director determines that, given the purposes of FINRA and the intent of the Code, the subject matter of the dispute is inappropriate, or that accepting the matter would pose a risk to the health or safety of arbitrators, staff, or parties or their representatives. Only the Director may exercise the authority under this Rule.

Furthermore, other Associated Persons have been successful in the past in obtaining an expungement of disclosures resulting from a prior adverse award through FINRA's arbitration forum, and therefore, FINRA's denial, in this case, is an inconsistent application of its rules.

Based on Mr. Jennings's obligations to abide by FINRA Rules, he is bound to FINRA arbitration for disputes between himself and a Member Firm. FINRA has abused its discretion by denying the forum in such an inconsistent and arbitrary manner. Mr. Jennings submits this Application for Review requesting that he be permitted to have his expungement request in FINRA Case Number 21-02991 resubmitted to the arbitration panel and to allow the case to proceed to arbitration. In the alternative, Mr. Jennings requests other relief that is appropriate and ordered by the Commission.

Dated: September 8, 2022

Respectfully submitted,



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