

Jason DiPaola is formally appealing the decision set forth by FINRA.

Regarding Enforcement's First and Second Causes of Action, Enforcement has, essentially, acknowledged that it did not elicit evidence of a single specific trade that Mr. DiPaola made in his mother's account at his own discretion and without her approval. Rather, Enforcement leans even deeper into its steadfast approach of inferring discretionary authority due to the nature of the trades and cherry-picked testimony. There is no legal support for this conclusion.

Mr. DiPaola was ready, willing, and able to show up to FINRA's 4th request for another on the record interview. Mr. DiPaola resigned from a FINRA member firm in February 2019 and his license was set to expire in February of 2021. Chardan Capital misreported his resignation date for a date in April 2019 which would put FINRA's timeline to try and harass him one last time before he was no longer under their purview to April 2021. They issued the last request in March 2021 which is clearly after Mr. DiPaola's 2 year resignation date, and one month before his license was set to expire. FINRA completely ignored Mr. DiPaola's counsel's requests for the new information that he was to be questioned on since they didn't have any at the time. Instead they waited for their date to come and go before illegally issuing a Wells Notice against Mr. DiPaola. Mr. DiPaola's right to due process was violated not once, but twice since the OTR request came more than 2 years after Mr. DiPaola formally resigned from Chardan Capital Enforcement does not and cannot dispute that there is not a singular piece of precedent (regulatory notice, rule, case, or treatise) expressly permitting OTRs post-Wells Notice without a Wells Submission. Acknowledging this uncontroverted fact, Enforcement has no choice but to continue relying on the "broad purpose" of FINRA Rule 8210, and cases that it concedes are readily distinguishable in critical ways. Clearly,

any statute, rule or regulation must be read in the strictest sense without any broad parameters as Enforcement now seems to suggest.

Moreover, Enforcement has failed to set forth any semblance of a legitimate defense to Respondent's cross-appeal, and, again, hopes the NAC will rubberstamp the Hearing Panel's deeply flawed Decision. For the reasons that follow, and for the reasons set forth in Respondent's opening brief, the Decision should be reversed.

CONCLUSION

For the foregoing reasons Mr. DiPaola requests the SEC reverse the Hearing Panel's Decision, deny Enforcement's claims in their entirety, and award Respondent the costs and expenses incurred in this proceeding, including without limitation forum fees, tribunal fees or filing fees.

Dated: New York, New York
April 15, 2023

Respectfully submitted,

Jason DiPaola

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