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Filed Electronically

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Re: Regulatory Notice 26-06: FINRA Requests Comment on Modernizing FINRA Arbitration Rules, Guidance and Processes

Dear Ms. Piorko Mitchell:

Pickard Djinis and Pisarri LLP¹ submits this comment letter in response to the above-referenced FINRA Notice for Members (the "Notice"). Our comment relates specifically to Section J of the Notice, which requests comment on whether FINRA should amend its rules "to allow it to remove awards from AAO [Arbitration Awards Online database], or redact information from awards published on AAO, such as when the information in the award has been expunged from the Central Registration Depository (pursuant to a court order or court confirmation of a FINRA arbitration award containing expungement relief.)"

Our firm has spent much of the past decade urging FINRA and the SEC to address FINRA's deeply flawed expungement process, which has caused false and misleading allegations against broker-dealers to propagate in the public profiles of financial professionals, even where FINRA's own arbitral forum has determined such allegations have no merit. FINRA responded by instructing our firm to file a Petition for Rulemaking with the SEC proposing that expungement of the AAO be specifically provided for in the Codes of Arbitration. As acknowledged in the Notice, in March of 2021, our firm submitted a petition for rulemaking² to the Securities and Exchange Commission (SEC) requesting that the FINRA Codes of Arbitration be amended to permit for the expungement or redaction of AAO records when corresponding information has been expunged from the Central Registration Depository (CRD).

The SEC has now advised that the formal rule amendment proposed by our firm is not

¹ Pickard Djinis and Pisarri LLP is a law firm specializing in securities regulation relating to broker-dealers and their registered persons, investment advisers, and service providers thereto. For over forty years our firm has participated in the FINRA arbitral forum on behalf of member firms, their registered representatives, and clients raising customer complaints about registered persons.

² Petition for Rulemaking, File No. 4-770 (Mar. 17, 2021).

necessary, as expungement of the AAO is already permitted under the current Codes of Arbitration. On March 11, 2026, the SEC responded to our Petition for Rulemaking in the enclosed letter (the “Response”) clarifying that FINRA already possesses sufficient authority to control the publication of records in AAO and remove or redact records of expunged allegations. As the Response observes, the current requirement in FINRA Rules 12904(h) and 13904(h) that arbitration awards be publicly available *does not* preclude FINRA from removing or redacting information from the AAO where that information has been expunged from the CRD pursuant to FINRA’s existing expungement framework. Any amendment of the Codes would reiterate what the SEC has already made clear: removal or redaction of AAO records is a perfectly natural and necessary function of FINRA’s existing authority to maintain public databases for the public interest.

The SEC’s interpretation of FINRA’s authority is completely consistent with FINRA’s overarching arbitration and disclosure regime, as structured and overseen by the SEC and Congress, which already contemplates that information determined to be erroneous, defamatory, or otherwise inappropriate for public dissemination should not remain accessible to the investing public. As the Response notes, FINRA’s longstanding refusal to remove or redact AAO records “raises significant questions as to whether it is in the public interest to have a disparity of information between the two databases and whether there is a risk that investors and other market participants could be confused or uncertain as a result of the asymmetry.” It is long past time that FINRA address this disparity.

While the Notice was published before the SEC issued its Response to our petition, the SEC has now effectively resolved any uncertainty regarding FINRA’s baseline authority under its existing Codes of Arbitration. FINRA already has the power to redact or fully expunge AAO records where corresponding records in the CRD have already gone through the process of FINRA expungement. While we would applaud FINRA’s adoption of new rules codifying the power it already holds, maintaining the current status quo while undergoing a lengthy rulemaking process perpetuates the investor confusion identified in the SEC’s Response and propagates ongoing harm against registered persons whose public profiles are clogged with incomplete or inaccurate information regarding their disciplinary or arbitration history.

As FINRA is well aware, expungement is not granted lightly. Under current standards, it requires satisfaction of stringent requirements under FINRA Rules 12805 and 13805, including arbitral findings and, in most cases, judicial confirmation. Expungement proceedings are also particularly costly for participants given the number of pre- and post-hearing matters which must be handled by an advocate. Where that process results in a determination that certain information should be removed from the CRD, and, by extension, from FINRA BrokerCheck, it is inconsistent with principles of fairness and coherence for substantially the same information to remain publicly accessible in another FINRA-maintained database. The SEC’s Response appropriately recognizes this concern and confirms that FINRA has both the capacity and the discretion to address it. FINRA should not wait for the formality of codification, but should immediately begin processing requests to remove expunged information from the AAO, whether through removal of the award entirely or targeted redaction.

Moreover, as should be obvious, *all* arbitration records related to expunged awards should be removed or redacted from AAO. Currently, FINRA publishes awards of arbitrations solely initiated to expunge complaint information already determined in a prior arbitration to be false or misleading. Where the underlying award has been expunged or redacted, any associated records should receive corresponding treatment, as false allegations would

otherwise continue to appear when a broker-dealer or associated person is searched in AAO and expungement of the original award would have no practical effect. Moreover, given the high costs already associated with the expungement process, FINRA should seek to minimize any procedural barriers of AAO expungement.

FINRA must also ensure that expungement carry through to any third-party publisher to whom AAO records have been sold or licensed. Our firm and our clients have become increasingly concerned about the republication of AAO records in databases owned and operated by third parties, including LexisNexis. It is FINRA's responsibility to ensure that all public records related to the FINRA arbitral forum are subject to expungement to protect broker-dealers, associated persons, and the investing public from false information.

If FINRA is insistent upon formal rulemaking despite the SEC's Response, FINRA should expeditiously propose amendments to its rules expressly authorizing the removal or redaction of AAO records in defined circumstances. Such rules should mirror the existing standards provided for expungement and redaction of certain disciplinary action orders and settlements, in which actual fault was found against a financial professional, but FINRA has determined that a public record of such wrongdoing would hold no value to investors.

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We appreciate the opportunity to submit these comments. We would be happy to supply any additional information you may desire about the matters discussed above. Kindly contact the undersigned at 202.223.4418 if we can be of further assistance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. G. L.", is positioned below the typed name "Respectfully submitted,".