

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 86890 / September 5, 2019

Admin. Proc. File No. 3-19206

In the Matter of the Application of
J.W. KORTH & COMPANY
For Review of Disciplinary Action Taken by
FINRA

ORDER DENYING STAY AS MOOT

J.W. Korth & Company appeals from FINRA disciplinary action based on findings of excessive markups and markdowns, in violation of FINRA, NASD, and MSRB rules. FINRA censured Korth and ordered it to pay restitution, to retain an independent consultant to review the firm's pricing procedures, and to pay appeal costs.¹ As part of its appeal, Korth requests that the Commission "stay the Disciplinary Action by FINRA" FINRA asserts in response that, pursuant to FINRA Rule 9370, "the censure, order of restitution, and order for an independent consultant are stayed pending the firm's appeal to the Commission."

The Commission's Rules of Practice do not provide for an automatic stay of sanctions imposed by a self-regulatory organization upon the filing of an application for Commission review.² FINRA Rule 9370 provides, however, that the filing of such an application "shall stay the effectiveness of any sanction, other than a bar or an expulsion, imposed in a decision constituting a final disciplinary action of FINRA."³ In light of Korth's filing of an application for Commission review, it appears that Korth's stay motion is moot.

¹ See *J.W. Korth & Co.*, Complaint No. 2012030738501, 2019 WL 2249820 (NAC May 22, 2019).

² See 17 C.F.R. § 201.420(d).

³ See FINRA Rule 9370(a); see also, e.g., *Thaddeus J. North*, Exchange Act Release No. 81661, 2017 WL 4150909, at *1 (Sept. 19, 2017) (denying stay request as moot because applicant "already possesses the specific relief he seeks" under FINRA Rule 9370); *Anthony A.*

(continued...)

Accordingly, IT IS ORDERED that J.W. Korth & Company's motion for a stay of the sanctions FINRA imposed pending Commission review of its appeal is denied.

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

Vanessa A. Countryman
Secretary

(...continued)

Grey, Exchange Act Release No. 75839, 2015 WL 5172955, at *12 n.68 (Sept. 3, 2015) (observing that Grey's application for Commission review stayed FINRA's order that he be suspended in any capacity for 18 months).