

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

WILLIAM ANDREW BARIS
(CRD No. 6178840),

Respondent.

Expedited Proceeding
No. ARB200024

STAR No. 20200670083

Hearing Officer-RES

**ORDER GRANTING DEPARTMENT OF ENFORCEMENT'S MOTION TO STRIKE
RESPONDENT'S DEFENSE AND REQUEST FOR HEARING**

On June 2, 2020, FINRA's Office of Dispute Resolution issued a notice ("Notice") of intent to suspend Respondent William Andrew Baris from associating with any FINRA member in any capacity under FINRA Rule 9554 for his failure to comply with a written settlement agreement in a FINRA arbitration. Respondent timely filed a request for hearing ("Request for Hearing") claiming as a defense that he had a financial inability to pay the balance due under the settlement agreement.¹ As required by FINRA Rule 9559(g), I issued a Notice of Hearing and Case Management and Scheduling Order ("CMSO"), which ordered Respondent to serve Complainant Department of Enforcement with a completed Statement of Financial Condition and all requested supporting documents on or before July 1, 2020. The CMSO gave notice, in bold-face print, that Respondent's failure to serve the Statement of Financial Condition could result in a finding that Respondent has abandoned his defense:

Respondent's failure to fully complete this form [and] to provide all requested supporting documents . . . may result in a finding that Respondent has abandoned his defense, and could result in a summary suspension of his FINRA license for failure to comply with the award.²

The Office of Hearing Officers served the CMSO on Respondent at the email address that he used to file his Request for Hearing. Yet Respondent failed to serve Enforcement with a completed Statement of Financial Condition or any supporting documents as required by the CMSO.

¹ Request for Hearing, at 1.

² CMSO, at 1.

An Order setting a pre-hearing conference (“PHC Order”) required that Respondent appear at a pre-hearing conference at 10:00 a.m. Eastern Time on July 8, 2020. The PHC Order gave notice that Respondent’s failure to appear at the pre-hearing conference could be deemed an abandonment of his defense:

Respondent is reminded that a failure to appear at the pre-hearing conference may be deemed an abandonment of his defenses to the notice and a waiver of any opportunity for a hearing, in which case the notice will be deemed to be the final FINRA action.³

The Office of Hearing Officers served the PHC Order on Respondent at his email address. The day before the pre-hearing conference, my Case Administrator sent an email to both Enforcement and Respondent reminding them of the conference and attaching a courtesy copy of the PHC Order. Despite being served with the PHC Order and receiving the reminder email, Respondent failed to appear at the pre-hearing conference. At no time did Respondent request an adjournment of the pre-hearing conference or otherwise contact Enforcement or my Case Administrator with regard to the conference or at any other time in connection with this expedited proceeding.

FINRA Rule 9559(m) provides that the failure of a respondent to appear at a pre-hearing conference or to comply with an order requiring production of information constitutes an abandonment of the respondent’s defense and a waiver of his opportunity for a hearing:

Failure of any respondent to appear before the Hearing Officer . . . at any status conference, pre-hearing conference or hearing, or to comply with any order of the Hearing Officer . . . requiring production of information to support any defense to the notice or petition that respondent has raised, shall be considered an abandonment of the respondent’s defense and waiver of any opportunity for a hearing provided by the Rule 9550 Series.⁴

FINRA Rule 9559(m) is clear and mandatory.⁵ In a case like this, where a respondent fails to pay a settlement agreement in a FINRA arbitration but asserts that he should be excused from paying because of financial inability, the burden of proof as to the respondent’s defense rests on him. If the respondent fails to provide the information necessary to support his defense, no hearing is required.⁶

³ PHC Order, at 1.

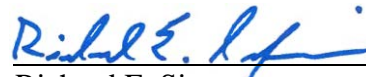
⁴ FINRA Rule 9559(m).

⁵ OHO Order EXP15-03 (ARB150048) (Dec. 3, 2015), at 4, www.finra.org/sites/default/files/OHO_EXP15-03_ARB150048_0.pdf.

⁶ See OHO Order EXP15-03, at 4; accord OHO Order EXP15-02 (ARB150039) (Dec. 18, 2015), at 3-4, www.finra.org/sites/default/files/OHO_EXP15-02_ARB150039_0.pdf.

Because of Respondent's failure to comply with the CMSO requiring production of the Statement of Financial Condition and supporting documents, and his failure to appear as ordered at the pre-hearing conference on July 8, 2020, I find that Respondent has abandoned his defense and waived his opportunity for a hearing. Under Article VI, Section 3(a) of FINRA's By-Laws and FINRA Rule 9559(n), Respondent is suspended from associating with any FINRA member firm in any capacity, effective immediately. This proceeding is dismissed as required by FINRA Rule 9559(m), and the Notice is deemed to be final FINRA action. The suspension shall continue until Respondent produces sufficient documentary evidence to FINRA showing: (1) he has paid the full balance of the settlement agreement; (2) he has entered into a fully signed written installment payment plan with the settlement agreement creditor and payments under the plan are current; (3) he has timely filed a motion to vacate or modify any award that was issued in the arbitration proceeding in which the settlement agreement was reached and such motion has not been denied; or (4) he has filed for bankruptcy protection and the outstanding balance of the settlement agreement has not been deemed by a federal court to be non-dischargeable.

SO ORDERED.



Richard E. Simpson

Hearing Officer

Dated: July 15, 2020

Copies to:

William Andrew Baris (via email and overnight courier)

Loyd Gattis, Esq. (via email)

Michelle Galloway, Esq. (via email)

Jennifer L. Crawford, Esq. (via email)