

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MATTHEW DIGREGORIO
(CRD No. 2434158),

Respondent.

Disciplinary Proceeding
No. 2015045909501

Hearing Officer – CC

DEFAULT DECISION

October 7, 2016

Respondent failed to honor an arbitration award and failed to comply with an arbitration panel's order to produce documents. For these violations, Respondent is barred from associating with any member firm in any capacity.

Appearances

For Complainant: Edwin Aradi, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

No appearance by or on behalf of Respondent Matthew DiGregorio.

I. Introduction

Matthew DiGregorio (“DiGregorio”) failed to pay an arbitration award and failed to produce information and documents that an arbitration panel ordered him to produce. The Department of Enforcement (“Enforcement”) properly served DiGregorio with two notices of the Complaint and the Complaint, and DiGregorio failed to respond. In light of DiGregorio’s failure to respond, I deem the allegations of the Complaint admitted, find that DiGregorio violated FINRA’s rules, and bar DiGregorio from associating with any member firm in any capacity.

On June 7, 2016, Enforcement filed the Complaint with FINRA’s Office of Hearing Officers (“OHO”). The Complaint alleges in cause one that, on June 12, 2015, a FINRA arbitration panel entered an award against DiGregorio for \$246,726 (the “Award”). Cause one alleges that DiGregorio did not move to vacate or modify the Award and failed to honor the Award. Cause one alleges that DiGregorio violated FINRA Rule 2010 and IM-13000(d).¹ Cause two alleges that, during the course of the arbitration, DiGregorio requested and was granted the

¹ FINRA’s Rules are available at www.finra.org/rules.

rescheduling of two arbitration sessions, based on his representations that he had family emergencies. Cause two also alleges that the arbitration panel, on two occasions, ordered DiGregorio to produce documents to support his contentions and that DiGregorio twice failed and refused to produce the documents. Cause two alleges that DiGregorio's conduct violated FINRA Rule 2010 and IM-13000(c). As an alternative to cause two, cause three of the Complaint alleges that DiGregorio's claim that he encountered a family emergency was false and violated FINRA Rule 2010.

Enforcement served DiGregorio with the Complaint in accordance with FINRA's Code of Procedure. DiGregorio failed to file an Answer or otherwise respond to the Complaint. Accordingly, on August 19, 2016, Enforcement filed a Motion for Entry of Default Decision ("Default Motion"), together with the Declaration of Edwin Aradi, Esq. ("Aradi Decl.") in support of the Default Motion and seven exhibits.²

As stated in detail below, the Hearing Officer finds DiGregorio in default, grants Enforcement's Default Motion, and deems the allegations of the Complaint admitted, pursuant to FINRA Rules 9215(f) and 9269(a).

II. Findings of Fact and Conclusions of Law

A. DiGregorio's Background

DiGregorio became registered in the securities industry in 1993.³ Most recently, DiGregorio was associated with Aegis Capital Corp. ("Aegis") as a general securities representative from June 10, 2015, through August 19, 2015, when he voluntarily resigned.⁴ On June 12, 2015, a FINRA arbitration panel entered the Award against DiGregorio in *Patrick Teutonico and Michael Regina v. Matthew DiGregorio*, Case No. 13-00570. The Award ordered DiGregorio to pay his former business partners at a FINRA member firm \$246,726 for claims arising out of their business relationship.⁵ On August 31, 2015, FINRA suspended DiGregorio from associating with any FINRA member because he had not honored the Award.⁶

B. FINRA's Jurisdiction

FINRA has jurisdiction over this disciplinary proceeding pursuant to Article V, Section 4(a) of FINRA's By-Laws because: (1) Enforcement filed the Complaint on June 7, 2016, which is within two years of DiGregorio's termination of his association with Aegis on August

² In this decision, Enforcement's exhibits are referenced as CX-1 through CX-7.

³ CX-1, at 14.

⁴ Aradi Decl. ¶ 5; CX-1, at 3.

⁵ Complaint ¶ 16.

⁶ Aradi Decl. ¶ 5; CX-1, at 24-25. Article VI, Section 3 of the FINRA By-Laws and FINRA Rule 9554 allow for expedited proceedings to suspend associated persons who fail to pay arbitration awards.

19, 2015; and (2) the Complaint alleges that DiGregorio engaged in misconduct during the period when he was associated with member firm Aegis.⁷

C. Origin of the Investigation

This disciplinary proceeding originated from a referral pursuant to FINRA Rule 13104(e) from the arbitration panel.⁸

D. DiGregorio's Default

When Enforcement filed the Complaint in June 2016, DiGregorio's residential address as reflected in the Central Registration Depository ("CRD") was an address in Oceanside, New York (the "CRD Address").⁹ DiGregorio provided an additional Oceanside, New York address during his investigative testimony (the "Investigative Address").¹⁰ Aradi represents that Enforcement is unaware of any other addresses for DiGregorio.¹¹

On June 7, 2016, Enforcement served DiGregorio at the CRD and Investigative Addresses with the Notice of Complaint and Complaint by certified mail.¹² Enforcement also sent copies by first-class mail to both addresses.¹³ The United States Postal Service ("USPS") returned signed receipt cards for both addresses.¹⁴ One receipt contains an undecipherable signature and indicates delivery to the CRD Address on June 9, 2016.¹⁵ The other receipt contains a signature that appears to be that of "Stacy Forment," indicates that Forment signed as an agent of the addressee, and contains no delivery date.¹⁶ The USPS did not return the first-class mailings.¹⁷ DiGregorio's Answer to the First Notice of Complaint was due on or before July 5, 2016.

DiGregorio did not respond to the First Notice of Complaint by the July 5 deadline, so on July 7, 2016, Enforcement served DiGregorio by certified mail at the CRD and Investigative Addresses with the Second Notice of Complaint and the Complaint.¹⁸ Enforcement also sent the

⁷ See Article V, Sec. 4, FINRA By-Laws; Aradi Decl. ¶¶ 6, 7.

⁸ Aradi Decl. ¶ 4.

⁹ Aradi Decl. ¶ 8; CX-2.

¹⁰ Aradi Decl. ¶ 8; CX-2.

¹¹ Aradi Decl. ¶ 8.

¹² Aradi Decl. ¶ 8; CX-2.

¹³ Aradi Decl. ¶ 8.

¹⁴ *Id.*

¹⁵ CX-3, at 1.

¹⁶ CX-3, at 2.

¹⁷ Aradi Decl. ¶ 8.

¹⁸ Aradi Decl. ¶ 9; CX-4.

same materials to both of DiGregorio's addresses by first-class mail.¹⁹ The USPS returned two delivery receipt cards. One indicated that the Second Notice of Complaint was delivered on July 8, 2016, to the CRD Address.²⁰ The receipt card was signed by an individual with the last name "DiGregorio" and a first name that begins with "C."²¹ The delivery receipt card for the Investigative Address contains no date of delivery and an illegible signature.²² The USPS did not return the first-class mailings to either address.²³ On July 25, 2016, Enforcement received a hand-written, unsigned letter stating that DiGregorio does not reside at the Investigative Address and that he could be reached at the CRD Address.²⁴ DiGregorio's Answer to the Second Notice of Complaint was due on or before July 25, 2016.²⁵ To date, DiGregorio has not filed an Answer or otherwise responded to the Complaint.²⁶

FINRA Rule 9134 provides for service of a complaint on a natural person by certified mail to the person's residential address as indicated in the CRD. Rule 9134(b)(1) states that, if the party responsible for serving the complaint has actual knowledge that the CRD address is out of date, the serving party shall send duplicate copies to the last known address and business address indicated in CRD. Here, CRD indicates that DiGregorio left the securities industry in August 2015 and has not been registered since.²⁷ Enforcement therefore did not have a current business address for DiGregorio.²⁸ Enforcement twice mailed a duplicate copy of the Complaint to DiGregorio by first-class and certified mail to the Investigative Address. The Hearing Officer finds that Enforcement properly served DiGregorio with the First and Second Notices of the Complaint and that DiGregorio failed to file an Answer to the Complaint. Pursuant to FINRA Rules 9215(f) and 9269(a), the Hearing Officer finds DiGregorio in default and deems admitted all allegations of the Complaint.

¹⁹ Aradi Decl. ¶ 9; CX-4.

²⁰ Aradi Decl. ¶ 9; CX-5.

²¹ CX-5. The first name of the signature is otherwise not legible.

²² CX-6.

²³ Aradi Decl. ¶ 9.

²⁴ Aradi Decl. ¶ 9; CX-7.

²⁵ Aradi Decl. ¶ 10; CX-4.

²⁶ Aradi Decl. ¶ 10. The Second Notice of Complaint advised DiGregorio that his failure to submit an Answer to the Complaint would allow the Hearing Officer to: (1) treat as admitted by DiGregorio the allegations of the Complaint; (2) enter a default decision against DiGregorio pursuant to FINRA Rule 9269; and (3) impose sanctions against DiGregorio without further notice. CX-4, at 2.

²⁷ Aradi Decl. ¶ 11; CX-1, at 3.

²⁸ Aradi Decl. ¶ 10.

E. DiGregorio Failed to Honor an Arbitration Award as Alleged in Cause One

Cause one alleges that an arbitration panel entered the Award on June 12, 2015, in the amount of \$246,726. Cause one alleges that DiGregorio has neither satisfied the Award nor moved to vacate the Award, in violation of FINRA Rule 2010 and FINRA IM-13000(d).

On February 26, 2013, arbitration claimants PT and MR filed an arbitration claim against DiGregorio based on a dispute arising from their prior business partnership.²⁹ The arbitration panel held hearing sessions on May 19, May 27, and May 29, 2015.³⁰ During his closing argument on May 29, 2015, DiGregorio told the arbitration panel that if he did not prevail in the arbitration, he would not pay any award entered against him.³¹ On June 12, 2015, the arbitration panel issued the Award, ordering DiGregorio to pay the claimants \$246,726.48.³²

FINRA Rule 13904 states that all arbitration awards shall be paid within 30 days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. DiGregorio neither filed a motion to vacate the Award nor paid the Award.³³ FINRA IM-13000(d) states that it may be deemed conduct inconsistent with just and equitable principles of trade and therefore a violation of Rule 2010 for an associated person to fail to honor an arbitration award.³⁴ I find that DiGregorio violated FINRA Rule 2010 and IM-13000(d) by failing to pay the Award.

F. DiGregorio Failed to Comply with an Arbitration Panel Order to Produce Documents

Cause two alleges that, on May 21 and May 27, 2015, a FINRA arbitration panel ordered DiGregorio to produce documents in connection with the arbitration, and DiGregorio failed and refused to produce responsive documents. Cause two alleges that this conduct violated FINRA Rule 2010 and IM-13000(c).

DiGregorio participated in day one of the arbitration hearing on May 19, 2015.³⁵ Additional sessions were scheduled for May 20, 21, 27 and 29, 2015.³⁶ At 7:30 a.m. on May 20, 2015, DiGregorio emailed the arbitration case administrator and stated that he would not be able

²⁹ Complaint ¶ 5.

³⁰ Complaint ¶¶ 6, 11, 13.

³¹ Complaint ¶ 15.

³² Complaint ¶ 16.

³³ Complaint ¶¶ 27, 28.

³⁴ See *Robert Tretiak*, 56 S.E.C. 209, 219 (2003) (holding that the obligation to pay an arbitration award arises upon receipt of the award, associated persons are obligated to pay arbitration awards, and the failure to pay such awards violates Rule 2110 (now Rule 2010)).

³⁵ Complaint ¶ 6.

³⁶ *Id.*

to attend that day's session because of an accident that occurred the night before involving one of his children.³⁷ The arbitration panel cancelled that day's session. At 6:31 a.m. the next day, DiGregorio emailed the case administrator and stated that he would not be able to attend that day's session because of the unfortunate occurrence in his family.³⁸ Later that day, the arbitration case administrator asked DiGregorio to provide additional detail, and DiGregorio wrote that his child had been struck by a car while riding a bicycle on May 19, 2015.³⁹

On May 21, 2015, the arbitration panel issued an order granting DiGregorio's request to adjourn the May 20 and 21, 2015 arbitration sessions, but ordered that he produce documents to evidence his child's accident by noon on May 26, 2015.⁴⁰ DiGregorio did not produce any documents by May 26, 2015.⁴¹

The arbitration hearing reconvened on May 27, 2015. DiGregorio appeared and told the arbitration panel that his child did not go to the emergency room, but that the police had been called to the scene of the accident.⁴² The chair of the arbitration panel ordered DiGregorio to produce at the next arbitration session (on May 29) a police report and a notarized statement from his ex-wife, whom DiGregorio claimed had witnessed the accident. DiGregorio agreed.⁴³ DiGregorio did not, however, produce the requested information on May 29.⁴⁴

At the May 29, 2015 session, DiGregorio told the arbitration panel that he would not produce documents because he did not want the claimants to see documents that disclosed where his ex-wife and children lived.⁴⁵ DiGregorio feared for his and his family's lives and safety, he stated, because of prior incidents involving the claimants and gunshots, arson, and assaults.⁴⁶ The claimants denied DiGregorio's contentions, and DiGregorio produced no proof to substantiate his claims.⁴⁷ DiGregorio stated that he would take his "punishment" and pay whatever fine for

³⁷ Complaint ¶ 7.

³⁸ Complaint ¶ 8.

³⁹ *Id.*

⁴⁰ Complaint ¶ 9. The arbitration panel suggested that DiGregorio produce evidence of his child's May 19 emergency room visit, such as a letter from the attending physician or intake nurse, and an explanation of the family emergency that necessitated his May 21 absence. *Id.*

⁴¹ Complaint ¶ 10.

⁴² Complaint ¶ 11. During investigative testimony, DiGregorio stated that he did not recall the police being present at the accident scene. Complaint ¶ 20. He also produced documents his wife purportedly gave him, including a May 20, 2015 physician's letter relating to a 2011 accident involving his child. *Id.*

⁴³ Complaint ¶ 11.

⁴⁴ Complaint ¶ 12.

⁴⁵ Complaint ¶ 13.

⁴⁶ *Id.*

⁴⁷ *Id.*

disobeying the arbitration panel.⁴⁸ The arbitration panel advised DiGregorio that he may face disciplinary action for failing to comply with the arbitration panel's order.

FINRA IM-13000(c) states that “[i]t may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010 for [an associated person] to fail ... to produce any document in his possession or control as directed pursuant to provisions of the [Code of Arbitration Procedure for Industry Disputes].” Rule 13413 of the Code grants the arbitration panel authority to interpret the Code and states that the panel's interpretations and rulings are binding on the parties. Rule 13513 of the Code grants the arbitration panel authority to order the production of documents in a party's possession or control. Rule 13601 of the Code grants the arbitration panel authority to postpone a hearing only for good cause when the postponement request is made less than ten days prior to the hearing.

I find that the arbitration panel properly ordered DiGregorio to produce documents to substantiate his last-minute requests to postpone hearing days, and that he failed to comply with the order. Based on the foregoing, I find that DiGregorio violated FINRA Rule 2010 and IM-13000(c).⁴⁹

III. Sanctions

Given the similarity of DiGregorio's misconduct—his failure to honor the Award and his failure to comply with the arbitration panel's order to produce documents—I impose one sanction for both causes of action. “[FINRA's] arbitration proceedings are designed to provide a mechanism for the speedy resolution of disputes among members, their employees, and the public.”⁵⁰ Associated persons who flout the arbitration process by failing to comply with an arbitrator's order or failing to pay an arbitration award threaten the integrity FINRA's arbitration program.⁵¹ As such, I bar DiGregorio from associating with any member firm in any capacity.

FINRA's Sanction Guidelines for the failure to pay an arbitration award recommends a bar in egregious cases.⁵² DiGregorio's misconduct is egregious in that numerous aggravating factors exist. The Sanction Guidelines applicable to the failure to pay an arbitration award

⁴⁸ *Id.*

⁴⁹ As an alternative to cause two, Enforcement alleges in cause three that DiGregorio intentionally provided false information to the arbitration panel to procure two postponements, in violation of FINRA Rule 2010. Given my findings of violation under cause two, I do not reach cause three because it was pled as an alternative to cause two.

⁵⁰ *Tretiak*, 56 S.E.C. at 233.

⁵¹ *Cf. Tretiak*, 56 S.E.C. at 233 (finding that suspension that is to convert to a bar in all capacities and a \$10,000 fine was neither excessive nor oppressive for the failure to pay an arbitration award); *Herbert Garrett Frey*, 53 S.E.C. 146, 152 (1997) (holding that the respondent's failure to pay an arbitration award evidenced his complete disrespect for the arbitration process and upholding suspension until 180 days after respondent proves that he has paid the award in full).

⁵² FINRA Sanction Guidelines (2015), at 18, http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf. The Guidelines also recommend a fine. In light of my imposition of a bar, however, I have not imposed a fine. *See* Guidelines, at 10.

recommend that the adjudicator consider whether the respondent paid any portion of the arbitration award. DiGregorio has paid no portion of the Award, and announced to the arbitration panel during his closing that he never intended to pay the Award.⁵³ DiGregorio also has not made a good faith attempt to satisfy the Award in whole or part and has not negotiated a settlement or payment schedule. This too is aggravating.⁵⁴ DiGregorio also stalled the hearing process with postponement requests. And he showed outright contempt for the arbitration process by refusing to comply with an arbitrator's order that he produce documents to substantiate two postponements. These were intentional acts on his part that I find aggravating.⁵⁵

In light of these aggravating factors and given the nature of DiGregorio's misconduct, I bar DiGregorio from associating with any FINRA member firm in any capacity.

IV. Order

Respondent Matthew DiGregorio is barred from associating with any FINRA member firm in any capacity for: (1) failing to honor an arbitration award, in violation of FINRA Rule 2010 and IM-13000(d); and (2) failing to comply with an order of an arbitrator to produce documentation, in violation of FINRA Rule 2010 and IM-13000(c). The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Carla Carloni
Hearing Officer

Copies: Matthew DiGregorio (*via overnight courier and first-class mail*)
Edwin Aradi, Esq. (*via electronic and first-class mail*)
Jeffrey Pariser, Esq. (*via electronic mail*)

⁵³ Guidelines at 18 (Principal Considerations for Failure to Honor Arbitration Award No. 1).

⁵⁴ Guidelines at 18 (Principal Considerations for Failure to Honor Arbitration Award Nos. 2 and 3).

⁵⁵ Guidelines at 7 (Principal Considerations Applicable to All Violations No. 13).