

This Order has been published by NASD's Office of Hearing Officers and should be cited as OHO Order 06-31 (ARB060010).

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Respondent.

Expedited Proceeding
No. ARB060010

Hearing Officer – AWH

ORDER DISMISSING REQUEST FOR HEARING

On March 14, 2006, in response to a notice, sent by NASD staff pursuant to Rule 9554, that his association with any member firm would be suspended for failure to comply with an arbitration award, Respondent filed a timely request for a hearing. However, the request for a hearing did not comply with Rule 9554(e) which provides that a "request for a hearing must set forth with specificity any and all defenses to the NASD action." Accordingly Respondent was directed to serve and file a statement that sets forth his defense(s) to the notice of suspension, no later than March 21, 2006. Respondent failed to file such a statement.

On March 28, 2006, Enforcement filed a Motion for Order Deeming Notice of Suspension to be Final NASD Action, pursuant to Rule 9559(m). That Rule provides that failure of a respondent to comply with an order of the Hearing Officer requiring production of information to support any defense to a notice of suspension "shall be considered an abandonment of the respondent's defense and waiver of any opportunity for a hearing In such cases, the notice issued under the Rule 9550 Series shall be deemed to be final NASD action." Respondent failed to respond to the Motion, and he

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failed to appear at a scheduled pre-hearing conference on April 18, 2006. Absent Respondent's request for a hearing, his registration would have been suspended 21 days after service of the notice of suspension, that is, on March 16, 2006.

Because Respondent failed to specify any defense, produce any information to support any defense, or appear at the pre-hearing conference to demonstrate good cause why he failed to comply with the order of the Hearing Officer, pursuant to Rule 9559(m), he is deemed to have abandoned any defense to the notice of suspension, and to waive any opportunity for a hearing. Accordingly, Respondent's request for a hearing is dismissed, and the notice issued under the Rule 9550 Series is deemed to be final NASD action.

SO ORDERED.

Alan W. Heifetz
Hearing Officer

Dated: April 18, 2006