

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Respondent.

Expedited Proceeding
No. ARB090054

STAR No. 20090187451

Hearing Officer – Rochelle S. Hall

ORDER DISMISSING PROCEEDING FOR FAILURE TO STATE A DEFENSE

On or about June 16, 2009, pursuant to Procedural Rule 9554, FINRA staff sent Respondent a Notice of Intent to Suspend her for failure to comply with an arbitration award. On July 7, 2009, the Respondent filed a request for a hearing with the Office of Hearing Officers “because proceedings currently pending before the Securities Investor Protection Corporation (“SIPC”) may resolve any payment issues.” However, she did not state any of the allowable defenses specified by Procedural Rule 9554(e). Accordingly on July 13, 2009, the Hearing Officer ordered the Respondent to file a cognizable Statement of Defense on or before July 22, 2009. The Respondent has not filed a Statement of Defense as directed.

FINRA's arbitration process is designed to provide efficient resolution of disputes involving FINRA members, their employees, and the public.¹ To ensure compliance with

¹ *Eric M. Diehm*, Exchange Act Release No. 33478, 1994 SEC LEXIS 148, at *4 (Jan. 14, 1994) (internal citation omitted).

This Order has been published by FINRA's Office of Hearing Officers and should be cited as OHO Order 09-01 (ARB090054).

arbitration awards, FINRA promulgated rules to allow for expedited suspension proceedings against members and associated persons for failing to abide by such awards.²

Procedural Rules 9554(e) and 9559 govern a respondent's right to a hearing. A respondent who receives a notice of suspension, cancellation, or bar under Procedural Rule 9554 must file a written request for a hearing with the Office of Hearing Officers that sets forth "with specificity any and all defenses to the FINRA action." A respondent who fails to file a timely request for a hearing that specifies one or more of the permitted defenses waives her right to a hearing.

A respondent may assert certain limited defenses in an expedited suspension proceeding commenced pursuant to Procedural Rule 9554. These include: (1) the award has been paid in full; (2) the parties have agreed to installment payments of the amount awarded or have otherwise agreed to settle the action; (3) the award has been modified or vacated by a court; (4) a motion to vacate or modify the award is pending in a court; (5) the respondent has a bankruptcy petition pending in U.S. Bankruptcy Court pursuant to Title 11, or the award has been discharged by a U.S. Bankruptcy Court.³ A respondent may also assert a *bona fide* inability to pay the arbitration award.⁴

Here, the Respondent failed to comply with the Hearing Officer's order to specify a cognizable defense to FINRA's suspension notice, and the Hearing Officer finds that the Respondent's original hearing request did not comply with Procedural Rule 9554. Accordingly, the Respondent's hearing request is dismissed.

² FINRA By-Laws, Article VI, Section 3(b); FINRA Procedural Rule 9554.

³ FINRA By-Laws, Article VI, Section 3(b); NASD Notice to Members 00-55, 2000 NASD LEXIS 63 (Aug. 2000).

⁴ *See, e.g., William J. Gallagher*, Exchange Act Release No. 47501, 2003 SEC LEXIS 599 (Mar. 14, 2003).

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Pursuant to Rule 9559(m), the Suspension Notice is deemed to be the final FINRA action, the instant proceeding is hereby terminated, and the Respondent's registration is suspended effective immediately.

IT IS SO ORDERED.

Rochelle S. Hall
Hearing Officer

Dated: July 29, 2009