

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4424/December 8, 2016

ADMINISTRATIVE PROCEEDING
File Nos. 3-16227, 3-16229

In the Matters of

MIDDLEBURY SECURITIES, LLC, and

GREGORY OSBORN

ORDER

In July, the Division of Enforcement submitted a motion for summary disposition against Respondents. Middlebury and Osborn each responded individually to the Division's motion and included information relevant to their inability to pay monetary sanctions. In a prior order, I gave Middlebury until January 13, 2017, to submit additional information pertaining to its inability to pay. *See Middlebury Secs., LLC*, Admin. Proc. Release No. 4163, 2016 SEC LEXIS 3488 (ALJ Sept. 16, 2016).

Osborn submitted two exhibits pertaining to his financial condition. Osborn Exs. 10, 15. Osborn failed to provide documentation supporting some of his statements in those exhibits. For example, Osborn claimed to be in default on his mortgage and provided a mortgage statement from March 2015, but nothing more recent. Osborn Ex. 15 at 9. He also claimed he took out a very large home equity loan, but did not provide any official record of the loan. Osborn Ex. 10 at 2, 3.

In other instances, Osborn stated that he attached documentation but did not actually attach it. He claimed he included a pledge agreement documenting that he owes a substantial sum to Nuvel, a former company of his, but did not do so. *Id.* at 4. Likewise, Osborn stated that he attached his tax returns for 2009-2015, but they were not received. *Id.* at 9. He submitted only tax transcripts, not returns, and they only cover the years 2011-2013, so they do not provide a complete financial picture. Osborn Ex. 15 at 10-15. Finally, Osborn did not submit financial institution account statements, although he claimed that they were attached. Osborn Ex. 10 at 10.

Osborn's statement regarding his current income may not provide a complete picture either. He listed his salary from his current employer, ZapGo, and noted that he also receives a

“bonus”; however, he did not specify the amount of the bonus, which could be substantial enough to affect my determination of his ability to pay sanctions. *Id.* at 8. Indeed, in a filing last month before the Commission responding to Osborn’s request to reassess his industry bars, the Division provided a copy of an email chain between Osborn and a potential employer indicating that the bonus is potentially twice his annual salary. *See* Tenreiro Decl. Supporting Div.’s Opp’n to Osborn’s Penalty Reassessment Request, Ex. C at 3 (Nov. 10, 2016). Osborn should clarify the record in this proceeding.

I will allow Osborn to supplement his financial statements to correct these deficiencies and any others he finds by January 13, 2017—the same date by which Middlebury may file additional financial information. Osborn may not submit anything that is not directly relevant to his financial condition and his inability to pay to sanctions. The Division may file a reply to both Respondents’ submissions by January 23, 2017.

SO ORDERED.

Cameron Elliot
Administrative Law Judge