

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

Administrative Proceedings Rulings
Release No. 5212 / November 1, 2017

Administrative Proceeding
File No. 3-18038

In the Matter of

**Energy Edge Technologies Corp.,
Focus Gold Corp., and
New York Sub Co.**

**Order on New York Sub Co.'s
Request for Revised Summary
Disposition Schedule**

On October 25, 2017, I issued an initial decision revoking the registration of the registered securities of Respondent New York Sub Co. for its failure to file required periodic reports. *Energy Edge Techs. Corp.*, Initial Decision Release No. 1201, 2017 SEC LEXIS 3397.¹

On October 31, 2017, New York Sub requested either a revised summary disposition schedule or relief from default, asserting that it was not “served with the Commission papers.” Presumably, “Commission papers” refers to the Division of Enforcement’s motion for summary disposition, which was filed August 31, 2017. The certificate of service for the motion states that it was served on Respondent’s counsel by U.S. Postal Service priority mail express. Securities and Exchange Commission Rule of Practice 150(d) states that service by priority mail express is “complete upon delivery.” 17 C.F.R. § 201.150(d). However, Respondent argues that service was ineffective because the motion was “received by an ‘L. LUCERO,’ [and t]here is no ‘L. LUCERO’ in Respondent’s Counsel’s Office.” It should be noted that Respondent’s counsel is named Estevan “Steve” R. Lucero.

¹ On October 31, 2017, that decision was served on New York Sub by delivering a copy by U.S. Postal Service certified mail to its address in Altamonte Springs, Florida. A courtesy copy was emailed to counsel for New York Sub on November 1, 2017.

Under the briefing schedule, the motion was due August 31, 2017, Respondent's opposition was due September 28, 2017, and the Division's reply was due October 5, 2017. *Energy Edge Techs. Corp.*, Admin. Proc. Rulings Release No. 4948, 2017 SEC LEXIS 2365, at *1 (ALJ Aug. 4, 2017). Respondent's counsel admits that he received the Division's motion on October 5, 2017. He does not explain why, having allegedly not received the motion on its due date, he waited more than a month to contact Division counsel (who promptly emailed the motion to Respondent's counsel), or why he never inquired of my office whether the motion had been filed. Moreover, Respondent's counsel does not explain why he did not submit an opposition on the due date, even to say that he had nothing against which to respond. Further, he does not explain why, even though he received the motion by email on October 5, 2017, he waited three weeks more to submit the request under consideration.

Because I have issued an initial decision, my authority over this proceeding is limited to correcting manifest errors of fact. *See Alchemy Ventures, Inc.*, Securities Exchange Act of 1934 Release No. 70708, 2013 WL 6173809, at *3 & n.25 (Oct. 17, 2013). Under the Rules of Practice, a "motion to correct is properly filed . . . only if the basis for the motion is a patent misstatement of fact in the initial decision." 17 C.F.R. § 201.111(h). Such motions may not "contest the substantive merits of [an] initial decision." Adoption of Amendments to the Rules of Practice and Related Provisions and Delegations of Authority of the Commission, 70 Fed. Reg. 72,566, 72,567 (Dec. 5, 2005). A manifest, or patent, error of fact is an error that is "plain and indisputable, and that amounts to a complete disregard of . . . the credible evidence in the record." *Manifest Error, Black's Law Dictionary* (10th ed. 2014).

New York Sub's request does not meet this standard. Although it apparently asserts that it was not actually served with the motion, it does not dispute that the Division complied with the service rules, nor does it identify any allegedly erroneous facts in the initial decision regarding service.

Accordingly, it is ORDERED that New York Sub's request to set a revised summary disposition schedule, construed as a motion to correct manifest errors of fact or otherwise, is DENIED.

It is further ORDERED that New York Sub's request for relief from default is DENIED as moot, because I did not find New York Sub to be in default.

New York Sub is reminded that, pursuant to Rules 360 and 410, 17 C.F.R. §§ 201.360, .410, a party may file a petition for review of an initial

decision with the Commission within twenty-one days after service of the initial decision.

Cameron Elliot
Administrative Law Judge