

UNITED STATES OF AMERICA
Before the SECURITIES AND EXCHANGE COMMISSION

-----X
DEPARTMENT OF ENFORCEMENT,

Complainant,

V.

AHMED GADELKAREEM
(CRD No.1045883)

Respondent.
-----X

3-17934

DISCIPLINARY PROCEEDING

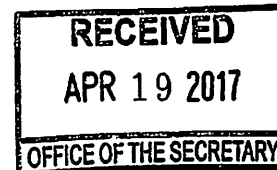
No. 2014040968501

Hearing Officers:

A Notice of Appeal

Decisions, Arguments and conclusions

Oral Argument is requested



NOTICE OF APPEAL

Pursuant to FINRA Rule 9370 Respondent AHMED GADELKAREEM here by appeals each and every part of Hearing Panel Decision on May 2, 2016 together with NAC Decision of March 23, 2017, and seeks independent review by the SECURITIES AND EXCHANGE COMMISSION of permanent bar imposed upon the Respondent of association with any FINRA member and for such other and future relief as is just and equitable.

Decisions

- A- Hearing Panel Decision on May 2, 2016 states " For making , abusive , intimidating and threatening communications to various individuals at his former employer firm , in violation of FINRA Rule 5240 and 2010 , Respondent is barred from associating with FINRA member firm in any capacity " Here as Exhibit A
- B- The NAC' Decision on March 23, 2017 states " Accordingly, Rule 5240 does not apply to Gadelkareem' conduct here, and we dismiss this segment of the finding of violation ... " Here is Exhibit B

Argument A

As NAC states that, making, abusive, intimidating and threatening communications to various individuals at Respondent 'former employer firm, were not a violation of FINRA Rule 5240.

Here is the question: Is making, abusive, intimidating and threatening communications to various individuals at Respondent former employer firm not a violation of FINRA Rule 2010? Let us see Rule 2010 below:

FINRA Rule 2010 applies to the market actions, not employment disputes

FINRA Rule 2010 simply states, "A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade ". This rule has been mostly as a catchall provision but it, like Rule 5240, is intended to protect investors and the Markets. In its Notice to Members 08-57 dated October 2008, FINRA states:

FINRA Rule 2010 requires members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade. Rule 2010 protects investors and the securities industry from dishonest practices that are unfair to investors or hinder the functioning of a free and open market ..." (italics added).

The conduct at issue here had no affect on any investors or markets as whole and constitutes an employment dispute , not a regulatory violation , absent such an effect , Rule 2010 , like Rule 5240 , does not apply to the actions described in Enforcement 's complaint .

Conclusion A

Accordingly, Rule 2010 does not apply to Gadelkareem' conduct here and Respondent is asking the SEC's panel to dismiss this segment of the finding of violation, Gadelkareem's conduct, while unseemly, harmed no investors, sought no unfair compensation and had absolutely no effect on securities market, it was simply the result of an employment dispute. Employment disputes involving FINRA members are dealt by FINRA Dispute resolution, not Enforcement, and the matter at issue here has already been resolved. Attached is Exhibit C. a copy of the Global Settlement agreement and mutual releases.

Argument B

Gadelkareem understands that most of his conduct was unethical conducts if not all, but all of Gadelkareem motives and intentions were done with ethical intention.

Below is some conduct if not all

1- Sending an FBI email and texts, forced Black Book Capital to withdrawal raising money for a fraudulent private placement and had it withdrawn .[see. Attached is Exhibit D]

2- Sending a false subpoena to the Hospital, allowed the Doctor to testify at the Hearing day was not a bad motive or intention.

3- Asking a manager who was dating a female "How much did you pay her to show up at the Xmas party," was not bad intention.

4- The client that they claimed they had lost, is Gadelkareem client for two decades, Gadelkareem only sent him the true facts about the Fraudulent deal that was represented by Black book capital and Franklin Ogle [see attachment see. Attached is Exhibit E].

Conclusion B

Rule 2010. unethical business conduct.

Is anyone from the above list has a business relationship or was a business conduct. If the answer is NO then Gadelkareem did not violate rule 2010

Based on the precedents cited above, it is not unreasonable to conclude that conduct of virtually any sort, even if done away from the business and not securities-related, or even outside the ambit of any SRO or federal regulatory body, may provide a basis for FINRA sanction if the activity is deemed unethical or inequitable. This is certainly true if the aggrieved is or was a customer of the broker, and may be true even if the third party is unaffiliated with the brokerage business of the broker.

We are still waiting for the definitive case to help us define the scope of Rule 2010, and until a court determines that the reach is so tortuous that it is fundamentally unfair to impose sanction for it, we should expect that the SEC, with the support and concurrence of Supreme Court, will continue to explore the outer limits of its authority.

The question at hand is "Is ----- ethical." To answer whether or not Franklin Ogle is an ethical person is a very difficult thing to say. You have to look at his supporters who will coddle him in any way possible and defend him at all costs. Franklin Ogle is an attorney, he knows many Enforcement attorneys, and he used to be employed with FINRA that is also a plus for him to convince FINRA and the Hearing officer (David Williams) to bar Gadelkareem.

On the other hand if Vincent McCrudden's case was a similar one to Gadelkareem case then Gadelkareem should not be barred and get a similar Judgment as Vincent McCrudden.

Suspension for one year not barred from the industry.

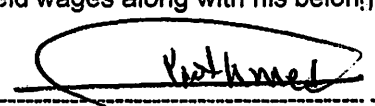
"For making abusive, intimidating, and threatening communications to his former employer, in violation of Rule 2110, Respondent (Vincent McCrudden) is suspended for 30 business days and fined \$10,000. For inducing the filing of a misleading and inaccurate Form U5 by his former firm, in violation of Rule 2110, Respondent is suspended for an additional five business days and fined an additional \$2,500.

The NAC increased the sanctions afterward to a \$50,000 fine and a one-year suspension.

Final Conclusion

For the foregoing reasons, Respondent respectfully requests that the SECURITIES AND EXCHANGE COMMISSION reduce the sanction to a suspension of less than one year –on the grounds that the respondent's (because of the termination of his employment and held wages along with his belongings) and for such other relief as is deemed just and equitable.

Dated April the 17th, 2017


Ahmed Gadelkareem
8523 Forthamilton PKW
Apt. 4A
Brooklyn, NY 11209

Sent to:

SEC

The office of the Secretary Securities
and Exchange Commission.

100 F Street, NE,

Room 10915

Washington, D.C. 20549

Copy to:

FINRA

Attn; Celia Passaro

Office of General Counsel

FINRA

1735 K Street, N.W-TH floor

Washington, D.C. 20006

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

AHMED GADELKAREEM
(CRD No. 2815685),

Respondent.

Disciplinary Proceeding
No. 2014040968501

Hearing Officer—DW

HEARING PANEL DECISION

May 2, 2016

For making abusive, intimidating, and threatening communications to various individuals at his former employer firm, in violation of FINRA Rules 5240 and 2010, Respondent is barred from associating with a FINRA member firm in any capacity.

Appearances

For the Complainant: David C. Pollack, Esq. and David Monachino, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: Ahmed Gadelkareem appeared on his own behalf.

DECISION

I. Introduction

After a verbal altercation with an administrative assistant, Respondent Ahmed Gadelkareem was terminated by his employer, FINRA member firm Blackbook Capital LLC. Gadelkareem subsequently embarked upon an extended campaign of repeated phone calls, e-mail communications, and other harassing and threatening conduct directed toward individuals at the firm. Communications that began as an effort to obtain back pay and his personal effects quickly became hostile. In the weeks following his departure, Gadelkareem made a series of vulgar and profane threats, insults, and other communications to Blackbook Capital employees in an effort to intimidate the firm into complying with his demands. Gadelkareem's "war" against individuals at the firm encompassed all manner of incessant and hostile threats and disparaging communications that extended to Blackbook Capital's attorney and customers, FINRA, the local police, and the news media.

Following an investigation, the Department of Enforcement filed its Complaint on April 13, 2015. The sole cause of action charged that Gadelkareem engaged in improper conduct that threatened, harassed, and intimidated another person, in violation of FINRA Rules 5240 and 2010.¹ Gadelkareem filed an Answer denying the charge.

A hearing on the matter was held in New York, New York, beginning on March 21, 2016, before a Hearing Panel. After due consideration of the evidence presented at the hearing as well as the submissions of the parties, the Hearing Panel determines that Enforcement proved by a preponderance of the evidence that Gadelkareem violated the Rules as alleged in the Complaint, and the appropriate sanction is a bar from association with any FINRA member firm in any capacity.

II. Findings of Fact

A. Gadelkareem's Background

Gadelkareem entered the securities industry as a broker in March 1997. Since then he has associated with 19 member firms. From July 2013 until his April 2014 termination, he was associated with Blackbook Capital as a general securities representative and an investment banking representative. Following his departure he associated with another member firm.² Although Gadelkareem has no prior disciplinary history with FINRA, he has repeatedly been discharged or asked to resign by industry employers for a number of reasons, including but not limited to "failure to follow management instructions,"³ charging excessive commissions,⁴ unauthorized trading,⁵ and he was formally reprimanded by an employer for "aggressive behavior in soliciting potential clients."⁶

In his short tenure at Blackbook Capital, Gadelkareem was a problematic employee and "very disruptive in the office."⁷ He was "constantly getting into arguments" with co-workers.⁸ For instance, about a week after a company holiday party he approached a branch manager from another office and, referring to the branch manager's longtime girlfriend, asked "[h]ow much do you pay the whore that you brought to the Christmas party?"⁹ Gadelkareem was "uncontrollable

¹ Complaint ("Compl.") ¶¶ 21-22.

² Stipulation ("Stip.") ¶ 1; CX-41.

³ Hearing Transcript ("Tr.") at 417 (Gadelkareem testimony).

⁴ Tr. 418 (Gadelkareem testimony); CX-41.

⁵ Tr. 421 (Gadelkareem testimony); CX-41.

⁶ Tr. 428 (Gadelkareem testimony).

⁷ Tr. 242-43 (FO testimony).

⁸ Tr. 243 (FO testimony).

⁹ Tr. 243-44 (FO testimony).

in the office” to a point where his disputes and confrontations with other employees became “just too much.”¹⁰

B. Blackbook Capital Terminates Gadelkareem

Gadelkareem’s last day of work at Blackbook Capital was April 2, 2014. That day he argued with a Blackbook Capital receptionist when she declined to promptly assist Gadelkareem with a matter because she was busy helping another broker.¹¹ After the disagreement the receptionist filed a written complaint with the firm, alleging that Gadelkareem “verbally abused” her, adding that it was “NOT the first incident.”¹² Gadelkareem was immediately suspended and less than a week later, on April 7, 2014, he was terminated.¹³ Blackbook Capital’s stated reason for terminating Gadelkareem was his “repeated[] ... unprofessional conduct in [the] workplace, including without limitation, threatening and abusive interaction with female employees.”¹⁴

After being terminated, Gadelkareem demanded that Blackbook Capital pay his outstanding sales commissions and return to him certain personal effects that remained in the office.¹⁵ ~~When these demands were not immediately met, Gadelkareem began his campaign of harassment directed toward a number of individuals at the firm.~~

C. Gadelkareem’s Campaign of Harassment

On April 9, 2014—two days after his termination—Gadelkareem left an obscene voicemail message for Blackbook Capital broker DH, making derogatory and vulgar remarks about DH’s mother, describing her as a “[f---ing] whore.”¹⁶ The next day on April 10, 2014, Gadelkareem sent three e-mails complaining about DH to one of Blackbook Capital’s owners. The first e-mail forwarded a customer complaint with Gadelkareem’s exhortation: “Look what [DH] is doing with you Blackbook capital !!!!! ... Where is the compliance ???”¹⁷ Although the customer complaint alleging unauthorized trading purportedly comes from customer BJ, the

¹⁰ Tr. 243, 245 (FO testimony).

¹¹ Tr. 67-70 (DH testimony); Complainant’s Exhibit (“CX-”) 18.

¹² CX-18.

¹³ Tr. 74-77 (DH testimony); Tr. 250-51 (FO testimony); CX-1.

¹⁴ Tr. 241-42 (FO testimony); CX-1.

¹⁵ Respondent’s Exhibit (“RX-”) 8. Gadelkareem’s contract with Blackbook Capital permits the company to withhold outstanding broker commissions for up to 60 days after termination unless the company is satisfied that all outstanding claims against the broker are satisfied. CX-45, ¶ 11(D).

¹⁶ CX-2a; CX-2b.

¹⁷ CX-4.

syntax in the body of the communication is consistent with each of Gadelkareem's repeated e-mails, strongly supporting the inference that he drafted the message.¹⁸

Twenty minutes later, Gadelkareem sent another e-mail to the owner exhorting him to "get rid of" DH because he is a "lability, as he does not want fire" [*sic*] the receptionist Gadelkareem argued with because, according to Gadelkareem, "he is having sex and drugs with her."¹⁹ Yet another e-mail to the owner later that day complained about the president of the company, FO, who Gadelkareem asserted "is from Nigerian (Nigerian Scam)" [*sic*] and was "trying to steal" another broker's paycheck.²⁰

The next day on April 11, 2014, FO sent Gadelkareem an e-mail message confirming his termination, and advising him who to contact to retrieve his personal belongings.²¹ The e-mail requested that Gadelkareem "immediately cease and desist from sending text messages and constantly calling" him and the owner.²² Indeed, on no fewer than five occasions Gadelkareem was specifically requested to stop sending harassing communications to various individuals at Blackbook Capital.²³ Yet his conduct persisted.

On April 12, 2014, Gadelkareem left three voicemail messages for DH, taunting that "your mother is calling me," among other things.²⁴ Indeed, Gadelkareem harassed DH incessantly, making "several phone calls at all times day and night."²⁵ He similarly called or texted FO "not less than 15 to 20 times"—it was "constant."²⁶ Gadelkareem acted intentionally to threaten and harass. In his pre-hearing submissions, Gadelkareem himself acknowledges that he "barrage[d] ... Blackbook employees with communications" and that "the frequency, tone and language of [his] communications are outrageous."²⁷

¹⁸ CX-4. After another Blackbook Capital broker forwarded the message to customer BJ. His wife, MJ, responded by sending an e-mail to Gadelkareem that reflected no complaint or dissatisfaction with Blackbook Capital. Rather, MJ's e-mail to Gadelkareem noted that "things have not changed" from what she had recently told him in another e-mail, and she reminded him that "with due respect we will not be transferring the account to you." CX-11.

¹⁹ CX-5.

²⁰ CX-6.

²¹ CX-10.

²² CX-10.

²³ CX-10; CX-13; CX-14; CX-19b; CX-36.

²⁴ CX-7a; CX-7b; CX-8a; CX-8b; CX-9a; CX-9b.

²⁵ Tr. 82 (DH testimony).

²⁶ Tr. 263-64 (FO testimony).

²⁷ Respondent's Pre-Hearing Brief, at 5.

D. Gadelkareem's Harassment Escalates

Gadelkareem's campaign of harassment escalated when he contacted FINRA's Department of Enforcement. On April 16, 2014, Gadelkareem forwarded his complaints about his missing commissions and personal belongings to a FINRA investigator.²⁸ By reply e-mail that evening, the investigator asked to speak to Gadelkareem the next day.²⁹ Later that same evening, Gadelkareem forwarded the FINRA investigator's response to DH along with the threat: "[s]ettlement ... , my money 100 % pay out and my stuff or I will keep going !!!!"³⁰ Gadelkareem forwarded the response again to DH just 25 minutes later, this time with the demand: "[e]very small thing , my phone charger , my calculator Every thing"³¹ Seven minutes later, Gadelkareem forwarded the investigator's response to Blackbook Capital's owner. He threatened to involve FINRA unless Gadelkareem got satisfaction: "Settlement , Or you want me to continue"³²

After receiving Gadelkareem's messages, Blackbook Capital retained counsel.³³ The attorney contacted the FINRA investigator and informed him of Gadelkareem's effort to obtain "settlement" by forwarding the investigator's message.³⁴ The attorney then contacted Gadelkareem and asked that he cease and desist from his "pattern of harassment and threats" against various individuals at Blackbook Capital.³⁵ After a brief series of e-mails with the attorney, Gadelkareem complained to the New York Bar Association, forwarding the e-mail chain with Blackbook Capital's attorney along with the complaint that the attorney was "putting words into my email and insulting me in an aggrieved harassment manner."³⁶ Gadelkareem subsequently filed a formal written complaint against the attorney with the bar, accusing the attorney of, among other things, "aggravated" harassment on the basis that the attorney purportedly e-mailed him "more than 5 times" after being asked to stop.³⁷

But in fact it was Gadelkareem who went to extraordinary lengths to harass the attorney and others associated with Blackbook Capital. Gadelkareem *admits* that he called the attorney,

²⁸ CX-15. This contact with FINRA initiated the investigation that led to the present disciplinary matter.

²⁹ CX-15.

³⁰ CX-15.

³¹ CX-16.

³² CX-17.

³³ CX-18.

³⁴ CX-18.

³⁵ CX-19b.

³⁶ CX-20. After lodging his complaint against the attorney with the bar association, Gadelkareem forwarded a copy of the complaint to DH, accompanied by the message: "Your copy ... LOL."

³⁷ CX-53. Gadelkareem forwarded a copy of this complaint to DH's brother, another broker at Blackbook Capital, via text message with the comment: "[i]s [the attorney] going to serve 20 years in jail or [DH] will time will tell Lol. Swimming with a Shark can cost you an arm and a leg lol. Please say hello to [DH] ;)." CX-35.

while falsely impersonating a New York City police detective, threatening the attorney to “bring you to the station.”³⁸ Gadelkareem repeatedly dispatched the New York City Police Department to Blackbook Capital’s offices by making various false reports of harassment and theft.³⁹ Gadelkareem communicated with a reporter from Bloomberg News using the phony name “Sergey Alperovich,” claiming that various individuals at Blackbook Capital were engaged in fraudulent private placements, unauthorized trading, and a “Nigerian Scam.”⁴⁰ The claims of fraud were without substantial basis.⁴¹

Gadelkareem also used the “Sergey Alperovich” pseudonym to communicate the same baseless claims to a Dubai-based Blackbook Capital investor, who backed out of a multi-million dollar investment with Blackbook Capital after receiving the bogus allegations.⁴² Gadelkareem later signed a letter of apology to the investor, where he “attest[ed] that the claims made in those emails are false and I would have no reservations of any kind doing business with Blackbook Capital ... in the future.”⁴³

E. The Fake FINRA E-mail

Gadelkareem’s hostility increased when he discovered on April 22, 2014, that Blackbook Capital publicly disclosed on his Uniform Termination Notice for Securities Industry Registration (“Form U5”)⁴⁴ that he was terminated for cause for harassing a female employee.⁴⁵ The next day, he forwarded to individuals at Blackbook Capital an e-mail purportedly from a FINRA investigator “Steven McMellon.”⁴⁶ The e-mail included statements from McMellon that “I have Cc’ed [an FBI agent] on this email. You are 100% right, [DH] did a lot fraudulent deals, I believe an order of arrest will be issued soon to get him down here.”⁴⁷

³⁸ Tr. 460-61 (Gadelkareem testimony).

³⁹ Tr. 78-79 (DH testimony).

⁴⁰ CX-42b; Tr. 461-64 (Gadelkareem testimony).

⁴¹ The only basis for these assertions offered at the hearing pertained to the so-called “fraudulent” private placements. Gadelkareem presented exhibit RX-17, containing unremarkable excerpts from a private placement memorandum, and his own testimony that the investments were high-risk. Tr. 596 (Gadelkareem testimony).

⁴² Tr. 293-95 (FO testimony); CX-42b.

⁴³ CX-44. Blackbook Capital expended substantial resources by retaining experts and taking other steps to investigate the identity of “Sergey Alperovich.” Shortly after an arbitrator permitted Blackbook Capital to issue a subpoena to an Internet service provider for the purpose of obtaining Alperovich’s true identity, Gadelkareem suggested that Blackbook Capital should “let bygones be bygones,” implicitly acknowledging that he was Alperovich. Tr. 298-99 (FO testimony). Gadelkareem now admits as much. Tr. 464 (Gadelkareem testimony).

⁴⁴ When a registered representative leaves a firm for any reason, the firm must file a Form U5, a termination notice, within 30 days.

⁴⁵ Tr. 468-69 (Gadelkareem testimony); CX-21.

⁴⁶ CX-23a; CX-26; Stip. ¶ 4.

⁴⁷ CX-23a; Tr. 100-01 (DH testimony).

In fact, FINRA investigator Steven McMellon does not exist.⁴⁸ The statements attributed to the investigator were fabricated by Gadelkareem. Despite acknowledging that the fabricated e-mails were sent from his account, Gadelkareem testified during the hearing (consistent with his investigative on-the-record testimony) that he did not send the e-mail, and that his online account had been “hacked” at the time the e-mail was sent.⁴⁹ This was not truthful.

The testimony of a computer forensic expert established that the e-mail was sent from the identical Internet protocol (or “IP”) address⁵⁰ as other e-mails that Gadelkareem admits sending, demonstrating that the fabricated e-mail was sent from the same location that Gadelkareem regularly accessed the Internet.⁵¹ E-mail metadata suggests that the communication was sent by the same iPad Gadelkareem regularly used.⁵²

The only support for Gadelkareem’s claim that he did not control his e-mail account at the time the falsified FINRA investigator e-mails were sent are e-mails purportedly from his Internet service provider, “tech_support_247@aol.com.”⁵³ One of the “tech support” e-mails asserts:

This statement is an approve that account [REDACTED]@aol.com was locked from 3rd April 2014 to 6th May 2014 . And we helped you to reset the password for your email and successfully changed it for you. From 3rd April 2014 to 6th May 2014 you did not have control of your email account.⁵⁴

Gadelkareem provided this and other e-mails to FINRA during its investigation in support of his assertion that he did not send the falsified e-mail.⁵⁵ But this evidence, like the fictitious FINRA investigator e-mail, was fabricated by Gadelkareem. According to the service provider “the email address of tech_support_247@aol.com is not an official internal AOL customer support email address.”⁵⁶ When the service provider became aware of e-mails from that address, the account was terminated.⁵⁷ The provider made clear that “[a]ny emails from that

⁴⁸ Tr. 101 (DH testimony).

⁴⁹ Tr. 470-71 (Gadelkareem testimony).

⁵⁰ An IP address is a string of numbers assigned to a device when it connects to the Internet. A person who logs in from the same geographic location will often be assigned the same IP address over and over again. CX-40, at 2.

⁵¹ Tr. 152-54, 160-63 (Cats testimony); CX-40.

⁵² Tr. 152-54, 161-62 (Cats testimony); CX-40.

⁵³ CX-27; CX-28; CX-29; CX-30.

⁵⁴ CX-27.

⁵⁵ Tr. 489-90 (Gadelkareem testimony); RX-14; CX-31a; CX-31b.

⁵⁶ CX-32.

⁵⁷ CX-32.

email address that claim to be from any AOL customer service representative are fraudulent.”⁵⁸ Gadelkareem admitted drafting the text of the fraudulent tech support e-mail.⁵⁹ And he admitted that he did, in fact, have access to his e-mail account during the relevant period, contrary to the representations in the e-mail.⁶⁰ Gadelkareem submitted the false customer support e-mail to FINRA during its investigation to conceal from investigators the fact that he sent the falsified FINRA investigator e-mail.

F. Gadelkareem’s Medical Condition

Gadelkareem presented the testimony of his psychiatrist in defense of his actions. Gadelkareem claimed that there was a “toxic” work environment at Blackbook Capital that he described as a “circus.”⁶¹ He asserted that the environment led him to become “irritated” as a result of his psychiatric condition.⁶² His condition was explained by his psychiatrist.

The doctor reviewed Gadelkareem’s history of bipolar disorder, including bouts of “hyperactivity, hyperindulgence, ... irritable, agitated states, impulsive behaviors, ... along with frequent arguments, altercations with those around him at times at his workplace, ... grandiose thinking with inflated self-esteem and rapid speech.”⁶³ The psychiatrist further acknowledged Gadelkareem’s “history of violent aggressive behavior,” his “ten-plus arrests for domestic violence,” and his “physical and verbal altercations with coworkers and people in stores which have resulted in police being called.”⁶⁴ The psychiatrist indicated that since he began treatment Gadelkareem showed improved ability to maintain control over his behavior.⁶⁵

But the psychiatrist acknowledged that he was not treating Gadelkareem during April 2014, the period now at issue, and cannot attest to his mental state at that time.⁶⁶ Medical records indicate that Gadelkareem’s first effort to obtain treatment in more than ten years was on

⁵⁸ CX-32.

⁵⁹ Tr. 489-90 (Gadelkareem testimony).

⁶⁰ Tr. 499 (Gadelkareem testimony). At the hearing, Gadelkareem suggested that, despite his own access to his account and numerous e-mails he admits sending from the account with his iPad during the relevant period, an unidentified hacker secretly took possession of an identical second iPad he left behind at Blackbook Capital and then sent the fake FINRA investigator e-mail while standing outside Gadelkareem’s apartment building, thereby accessing the IP address assigned by his home wireless network. *See* Tr. 482-83 (Gadelkareem testimony). This implausible scenario is far less credible than the conclusion that Gadelkareem sent the falsified e-mail—as he admitted to a friend at one point during the investigation. Tr. 392 (Vigliotti testimony).

⁶¹ Tr. 551-53 (AS testimony); 588-89 (Gadelkareem testimony).

⁶² Tr. 588-89 (Gadelkareem testimony).

⁶³ Tr. 184 (Mounir testimony).

⁶⁴ Tr. 201-05 (Mounir testimony); RX-3, at 32, 48-49.

⁶⁵ Tr. 188 (Mounir testimony).

⁶⁶ Tr. 198 (Mounir testimony).

November 25, 2014⁶⁷—14 days after Enforcement advised him of its intent to recommend that this disciplinary action be brought against him.⁶⁸

The psychiatrist also acknowledged that Gadelkareem had a history of not taking medication necessary to treat his disorder and missing treatment appointments.⁶⁹ The psychiatrist recounted that Gadelkareem was “skeptical about psychiatric medications” and his treatment.⁷⁰ Treatments notwithstanding, “psychiatric conditions are usually chronic conditions with remissions and exacerbations. And symptoms can vary from time to time. As the condition worsens, the degree and level of intensity of symptoms can ... include thought disorder, perceptual disorder, including hallucinations, including paranoia, delusions and things of that sort.”⁷¹

G. Gadelkareem’s Conduct in this Proceeding

Gadelkareem’s actions in this proceeding were consistent with the conduct underlying the campaign of threats and harassment set forth above. Gadelkareem filed no fewer than five complaints with Enforcement in the days leading up to the hearing claiming to have been “set up” and asking that a “cross claim” be filed against DH.⁷² In one instance he filed a “claim” against DH because Enforcement would not agree to withdraw its Complaint against him in this proceeding.⁷³

Acting as his own representative in this matter, Gadelkareem falsified subpoenas and served the fictitious subpoenas on witnesses he sought to enlist to his defense, including his psychiatrist who ultimately provided medical testimony.⁷⁴ When asked why he fabricated subpoenas *after* being told in writing—twice—by Enforcement that there was no subpoena power in this matter and being told by the Hearing Officer at a pre-hearing conference that he was required to obtain the voluntary appearance of his witnesses, Gadelkareem testified that he “took a second opinion” from another attorney he knew and falsified the subpoenas anyway.⁷⁵

⁶⁷ RX-3, at 26.

⁶⁸ RX-14, at 15.

⁶⁹ Tr. 198-200 (Mounir testimony); RX-3, at 74.

⁷⁰ Tr. 209-10 (Mounir testimony); RX-3, at 8.

⁷¹ Tr. 228-29 (Mounir testimony).

⁷² CX-47; CX-48; CX-49; CX-50; CX-54.

⁷³ CX-54.

⁷⁴ Tr. 12-25.

⁷⁵ Tr. 519-20 (Gadelkareem testimony). One of the “subpoenaed” witnesses contacted Enforcement, who advised him that the subpoena was bogus. That witness chose not to attend the hearing. The Hearing Officer left a voicemail for the other witness, Gadelkareem’s psychiatrist, advising him that he was not required to attend the hearing pursuant to the “subpoena.” The Hearing Officer again advised the psychiatrist before his testimony that he was not required to testify, but the witness nevertheless agreed to do so voluntarily. Tr. 12-25, 172-74.

Gadelkareem admitted little wrongdoing in the matter, explaining that “[i]f you believe that what I done is wrong, I believe I did the right things. And I would do it again and again and again.”⁷⁶ When asked whether he believed he was “at war” with DH during the relevant period, Gadelkareem testified: “I’m still at war with him.”⁷⁷

III. Conclusions of Law

The Complaint’s sole cause of action alleges that by engaging in the conduct set forth above, Gadelkareem violated two provisions: FINRA Rules 5240 and 2010. Rule 5240 proscribes, among other things, engaging in conduct that “threatens, harasses, coerces, intimidates or otherwise attempts improperly to influence another member, a person associated with a member, or any other person.” Rule 2010 is a general proscription against conduct inconsistent with “high standards of commercial honor and just and equitable principles of trade.”⁷⁸

The Hearing Panel finds that Gadelkareem violated FINRA Rules 5240 and 2010.⁷⁹ As part of his campaign of threats and harassment, Gadelkareem engaged in an extended course of improper actions: he repeatedly hurled vulgar and profane insults at his intended targets;⁸⁰ he impersonated a police detective and a FINRA investigator to make baseless threats of adverse repercussions and consequences;⁸¹ he made unfounded allegations of fraud against Blackbook Capital to the media;⁸² he undermined business relationships between the firm and an investor by

⁷⁶ Tr. 606 (Gadelkareem testimony). At the hearing, Gadelkareem repeatedly and inappropriately interjected during the testimony of witnesses, e.g., Tr. 203, 263, 269, 283, 359-60, argued with witnesses, see Tr. 362 (“You’re a damn liar.”), made inappropriate throat-slashing gestures at a witness, Tr. 59, made disparaging remarks toward Enforcement, Tr. 377, 514, and continually disrupted the proceedings.

⁷⁷ Tr. 439 (Gadelkareem testimony).

⁷⁸ Because the gravamen of the claimed violations of both provisions arises from the same harassing and threatening conduct, the violations are “duplicative rather than ... separate and additional infraction[s]” and are properly set forth in a single claim. *Midwestern Securities Corporation*, Admin. Proc. File No. 3-3276, 1973 SEC LEXIS 3504, at *31 (Nov. 7, 1973).

⁷⁹ Gadelkareem has not disputed FINRA’s jurisdiction. Gadelkareem remains associated with a FINRA member and is therefore subject to FINRA’s jurisdiction and rules. See FINRA Rule 0140 (stating that FINRA’s rules shall apply to all members and persons associated with a member and that associated persons shall have the same duties and obligations as a member under FINRA’s rules).

⁸⁰ *Dep’t of Enforcement v. McCrudden*, No. 2007008358101, 2009 FINRA Discip. LEXIS 41, at *26 (OHO Oct. 15, 2009), *aff’d*, 2010 FINRA Discip. LEXIS 25 (NAC Oct. 15, 2010) (respondent’s use of “abusive and threatening communications to bargain for the money he felt he was owed and to improve the terms of his termination” constituted improper harassment).

⁸¹ See *Dep’t of Mkt. Regulation v. Aaron*, No. CLG050049, 2006 NASD Discip. LEXIS 11 (OHO Mar. 3, 2006) (“Respondent’s misrepresentations, threats, and intimidation plainly overstepped the bounds of [the Rule].”).

⁸² *Jay Frederick Keeton*, 50 S.E.C. 1128, 1134 (1992) (where respondent “irresponsibly attempted to coerce payment ... by threatening adverse publicity, ... the use of such tactics in the securities industry violates high standards of commercial honor and just and equitable principles of trade.”).

making unsubstantiated charges;⁸³ he lodged complaints against Blackbook Capital's attorney with the New York City Bar Association and forwarded those complaints to employees of the firm to further harass.⁸⁴ This and the other abusive conduct described above undertaken as a part of Gadelkareem's "war" with Blackbook Capital constitutes improper threats and harassment in violation of Rule 5240.⁸⁵ And Gadelkareem failed to comport himself in a manner consistent with the high standards of commercial honor required by participants in the securities industry as required by Rule 2010.⁸⁶

We reject Gadelkareem's notion that a supposed "toxic" work environment at Blackbook Capital justified his actions or otherwise undermines the charges against him. While we assume that Gadelkareem is sincere in his belief that Blackbook Capital was less than an ideal workplace, even if such an environment existed it did not afford him license to engage in the harassing and threatening conduct evidenced here. "Abusive conduct violates [the Rule] even if the respondent believes he has been wronged. Misconduct by the target of the threats is ... immaterial."⁸⁷ This is particularly true given that Gadelkareem's misconduct took place *after* his April 2014 termination that removed him from the purportedly "toxic" environment. The preponderance of the evidence establishes Gadelkareem's violations.

IV. Sanctions

We find Gadelkareem's conduct egregious. He engaged in an extraordinary array of harassing and threatening conduct. It is undisputed that he "barrage[d] ... Blackbook employees with communications" and that "the frequency, tone and language of [his] communications are outrageous."⁸⁸ Through his outrageous actions he went so far as to impersonate a police detective and a FINRA investigator to make his threats as coercive as possible. Moreover, at the hearing he displayed a disturbing lack of awareness of the wrongfulness of his conduct and took little responsibility for his own actions.

⁸³ See *McCrudden*, 2010 FINRA Discip. LEXIS 25, at *18 (contacts to disparage former employer with potential joint venture partner constituted improper harassment and intimidation).

⁸⁴ See *McCrudden*, 2009 FINRA Discip. LEXIS 41, at *29 (threats to report former employer to regulatory or criminal authorities constituted improper harassment and intimidation).

⁸⁵ FINRA's rules do not define what it means to "harass." According to Webster's Dictionary, "harass" means: "to annoy persistently," or "to create an unpleasant or hostile situation for especially by uninvited and unwelcome verbal or physical conduct." Merriam-Webster's Collegiate Dictionary (2015 ed.). The conduct proven here amply satisfies this definition.

⁸⁶ *Stephen B. Carlson*, Exchange Act Release No. 40672, 1998 SEC LEXIS 2463, at *9, *12 (Nov. 12, 1998) (the use of "threatening, coercive, and intimidating tactics" constituted "a serious breach of [respondent's] ethical duties as a securities professional").

⁸⁷ *McCrudden*, 2009 FINRA Discip. LEXIS 41, at *31.

⁸⁸ Respondent's Pre-Hearing Brief, at 5.

In determining the appropriate sanction the Hearing Panel first considered FINRA's Sanction Guidelines ("Guidelines") for intimidation and harassment,⁸⁹ as well as the Principal Considerations in Determining Sanctions.⁹⁰ The Guidelines recommend a suspension of ten business days to two years and a fine of between \$5,000 and \$73,000.⁹¹ In egregious cases, the Guidelines recommend that the Hearing Panel consider a more substantial fine or barring an individual respondent.⁹²

The Guidelines recommend that in cases of harassment principal consideration should focus on the "nature and content" of the communications.⁹³ As explained, Gadelkareem's conduct was outrageous in its frequency, tone, and language. Gadelkareem's hostile and threatening barrage of communications was incessant.⁹⁴ This barrage went on for weeks, an extended period of time.⁹⁵ The misconduct injured Blackbook Capital's business relationship with a significant client.⁹⁶ The conduct persisted even after his superiors at Blackbook Capital warned Gadelkareem—repeatedly—that his communications constituted harassment.⁹⁷ Gadelkareem's repeated threats and demands for compensation contemplated the potential for his personal financial gain through his bad acts.⁹⁸ His harassment was not negligent or inadvertent—he intentionally harassed those associated with Blackbook Capital in prosecuting his "war."⁹⁹ His impersonations of various individuals, including a police detective and a FINRA investigator, were calculated to deceive.¹⁰⁰ And he failed to fully accept responsibility for, or even acknowledge the wrongfulness of, his course of conduct.¹⁰¹

We also find troubling Gadelkareem's conduct during the hearing and the investigation that preceded it. Rather than admit his culpability for impersonating a FINRA investigator, he provided false testimony denying his misconduct and submitted phony e-mail documentation to mislead investigators and deceive this Hearing Panel.¹⁰² It is settled that "[p]roviding false and

⁸⁹ See FINRA Sanction Guidelines at 48 (2015), <http://www.finra.org/industry/sanction-guidelines>.

⁹⁰ Guidelines at 6.

⁹¹ *Id.* at 48.

⁹² *Id.*

⁹³ *Id.* (Principal Considerations in Determining Sanctions for Anti-Intimidation/Coordination, No. 5).

⁹⁴ See *id.* at 6 (Principal Considerations in Determining Sanctions, No. 8); *id.* at 48 (Principal Considerations in Determining Sanctions for Anti-Intimidation/Coordination, No. 7).

⁹⁵ *Id.* at 6 (Principal Considerations in Determining Sanctions, No. 9).

⁹⁶ *Id.* at 6 (Principal Considerations, No. 11).

⁹⁷ *Id.* at 7 (Principal Considerations, No. 15).

⁹⁸ *Id.* at 7 (Principal Considerations, No. 17).

⁹⁹ *Id.* at 7 (Principal Considerations, No. 13).

¹⁰⁰ *Id.* at 6 (Principal Considerations, No. 10).

¹⁰¹ *Id.* at 6 (Principal Considerations, No. 2).

¹⁰² *Id.* at 7 (Principal Considerations, No. 12).

misleading information ... subverts FINRA's ability to carry out its regulatory functions."¹⁰³ Consequently, the SEC has held that "intentionally providing falsified documents to FINRA in an attempt to mislead a FINRA examiner [is] misconduct that we find aggravating."¹⁰⁴ And Gadelkareem abused the hearing process by falsifying subpoenas to serve his purposes after being advised of the impropriety of his actions.¹⁰⁵ Gadelkareem showed no reluctance to resort to falsification, deception, and fraud where he believed it suited his needs.¹⁰⁶

These facts all serve as aggravating factors. On the other side of the ledger, it is true that Gadelkareem was terminated by his employer Blackbook Capital, in effect disciplining him for improper harassing behavior. But to the extent that this action is mitigating,¹⁰⁷ it is overwhelmed by the aggravating factors.¹⁰⁸ We also consider Gadelkareem's psychiatric condition to be mitigating, as his lengthy history of bipolar disorder presumably exacerbated or at least contributed to his improper conduct.¹⁰⁹ But to the extent that Gadelkareem's effort to seek treatment for his psychiatric disorder might be regarded as a "subsequent corrective measure" to remedy the circumstance leading to the misconduct,¹¹⁰ the remedial impact is simply inadequate. Gadelkareem's unwillingness to regularly adhere to his prescribed medication or participate in treatment; the apparent inefficacy of such treatment; along with his extensive history of bouts of

¹⁰³ *Dep't of Enforcement v. Ortiz*, No. E0220030425-01, 2007 FINRA Discip. LEXIS 3, at *33 (NAC Oct. 10, 2007), *aff'd*, Exchange Act Release No. 58416, 2008 SEC LEXIS 2401 (Aug. 22, 2008).

¹⁰⁴ *Mitchell H. Fillet*, Exchange Act Release No. 75054, 2015 SEC LEXIS 2142, at *56 (May 27, 2015).

¹⁰⁵ *Dist. Bus. Conduct Comm. v. Connolly*, No. PHL-731, 1991 NASD Discip. LEXIS 35, at *23 (Bd. of Governors Mar. 12, 1991) (respondent's "actions in preparing and issuing counterfeit 'subpoenas' to various parties demonstrates recent deceptive conduct" considered in aggravation of misconduct).

¹⁰⁶ Gadelkareem's misconduct during the investigation and hearing is properly considered in the context of sanctions. "Although this misconduct was outside the allegations of FINRA's complaint, FINRA may consider such evidence when assessing the appropriate sanction." *Fillet*, 2015 SEC LEXIS 2142, at *57 (considering misstatements in investigative on-the-record testimony in the context of sanctions).

¹⁰⁷ Guidelines at 7 (Principal Considerations, No. 14). The Principal Consideration speaks to discipline imposed by an employer prior to regulatory action. While we give Gadelkareem the benefit of consideration of this factor in mitigation, we note that Gadelkareem's termination by his employer preceded substantially all of the conduct now at issue.

¹⁰⁸ See *Denise M. Olson*, Exchange Act Release No. 75838, 2015 SEC LEXIS 3629, at *18-19 (Sept. 3, 2015) ("[T]he mitigating effect from [respondent's] termination is no guarantee of changed behavior, and it is not enough to overcome our concern that [respondent] poses a continuing danger to investors and other securities industry participants (including would-be employers).").

¹⁰⁹ See *Dep't of Enforcement v. Saad*, No. 2006006705601, 2015 FINRA Discip. LEXIS 49, at *23 (NAC Mar. 16, 2015) (Personal problems or medical condition "might give rise to some mitigation if there is evidence that such problems interfered with an ability to comply with FINRA rules or that violations resulted from, or were exacerbated by, such problems.").

¹¹⁰ Remedial measures may only be considered in mitigation where they come "prior to detection or intervention ... by a regulator." Guidelines at 6 (Principal Considerations in Determining Sanctions, No. 3). Where, as here, those efforts come after being advised by Enforcement of its intent to bring a disciplinary proceeding, they come too late. See *Dennis Todd Lloyd Gordon*, Exchange Act Release No. 57655, 2008 SEC LEXIS 819, at *68 (Apr. 11, 2008) ("Remedial action taken after the initiation of an examination has little mitigative value.").

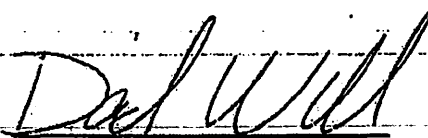
anger, violence and hostility in the workplace and elsewhere, undermine any suggestion that the circumstances that led to the misconduct have been corrected. In contemplating necessary relief, "it is critical to ensure that the investing public is protected from any possible recurrence of misconduct."¹¹¹ And it is clear from our assessment of Gadelkareem's conduct throughout this proceeding that whatever issues may have contributed to the improper and unacceptable conduct that gives rise to his violation, those issues have not been remediated.¹¹²

After weighing the evidence and considering all applicable factors, we conclude that Gadelkareem poses a potential threat to the investing public and to FINRA member firms in any circumstance where his personal preferences or self-interest might not coincide with the interests of clients or employers. For these reasons, and in order to effectuate the remedial purposes of the Sanction Guidelines, protect the public interest, improve overall business standards in the securities industry, and deter others from engaging in similar misconduct, the only appropriate sanction is a bar from association with any FINRA member firm in any capacity.

V. Order

Respondent Ahmed Gadelkareem is barred from associating with any FINRA member firm in any capacity for engaging in improper threatening and harassing conduct, in violation FINRA Rules 5240 and 2010. The bar shall become effective immediately if this decision becomes FINRA's final action in this disciplinary proceeding.

In addition, Gadelkareem is ordered to pay costs in the amount of \$5,649.78, which includes the hearing transcript fees and an administrative fee of \$750. The assessed costs shall be due on a date set by FINRA, but not sooner than 30 days after this decision becomes FINRA's final disciplinary action in this proceeding.¹¹³



David Williams
Hearing Officer
For the Hearing Panel

¹¹¹ *Dist. Bus. Conduct Comm. v. Klein*, No. C02940041, 1995 NASD Discip. LEXIS 229, at *13 (NBCC June 20, 1995) *aff'd*, 1995 SEC LEXIS 3418 (Dec. 14, 1995).

¹¹² *See Dep't of Enforcement v. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at *43-44 (NAC Dec. 18, 2006) (disagreeing that a respondent was unlikely to engage in future misconduct where, although the panic attacks from which he was suffering when committing forgeries were now "under control through medication," he subsequently made untruthful statements to FINRA).

¹¹³ The Hearing Panel considered and rejected without discussion all other arguments of the parties.

Copies to:

Ahmed Gadelkareem (via overnight courier, first-class mail, and electronic mail)

David C. Pollack, Esq. (via first-class mail and electronic mail)

David Monachino, Esq. (via electronic mail)

Jeffrey D. Pariser, Esq. (via electronic mail)

Exhibit B



Financial Industry Regulatory Authority

Celia Passaro
Assistant General Counsel

Direct: (202) 728-8985
Fax: (202) 728-8264

March 23, 2017

VIA MESSENGER

Brent Fields, Secretary
Securities and Exchange Commission
100 F Street, NE
Room 10915
Washington, D.C. 20549

RE: Complaint No. 2014040968501: Ahmed Gadelkareem

Dear Mr. Fields:

Enclosed please find the decision of the National Adjudicatory Council ("NAC") in the above-referenced matter. The FINRA Board of Governors did not call this matter for review, and the attached NAC decision is the final decision of FINRA.

Very truly yours,

A handwritten signature in black ink, appearing to be "Celia Passaro", written over a horizontal line.

Celia Passaro

Enclosure



Financial Industry Regulatory Authority

Marcia E. Asquith
Senior Vice President and
Corporate Secretary

Direct: (202) 728-8831
Fax: (202) 728-8300

March 23, 2017

VIA CERTIFIED MAIL:
RETURN RECEIPT REQUESTED/FIRST-CLASS MAIL

Ahmed Gadelkareem
██████████ Pkwy., ██████████
Brooklyn, NY ██████████
(646) 259-4706
██████████@aol.com
Gadelkareem@yahoo.com

Re: Complaint No. 2014040968501: Ahmed Gadelkareem

Dear Mr. Gadelkareem:

Enclosed is the decision of the National Adjudicatory Council (“NAC”) in the above-referenced matter. The Board of Governors of the Financial Industry Regulatory Authority (“FINRA”) did not call this matter for review, and the attached NAC decision is the final decision of FINRA.

In the enclosed decision, the NAC found that you engaged in a campaign of abusive, intimidating, threatening, and harassing communications and other conduct towards your former firm and its associated persons, in violation of FINRA Rule 2010. For this misconduct, you are barred from associating with any member firm in all capacities, effective upon service of this decision. The NAC also affirmed the Hearing Panel’s order that you pay \$5,649.78 in hearing costs.

Please note that under Rule 8311 (“Effect of a Suspension, Revocation, Cancellation, or Bar”), because the NAC has imposed a bar, effective immediately you are not permitted to associate further with any FINRA member firm in any capacity, including a clerical or ministerial capacity.

Pursuant to Article V, Section 2 of the FINRA By-Laws, if you are currently employed with a member of FINRA, you are required immediately to update your Form U4 to reflect this action.

You are also reminded that the failure to keep FINRA apprised of your most recent address may result in the entry of a default decision against you. Article V, Section 2 of the FINRA By-Laws requires all persons who apply for registration with

Investor protection. Market integrity.

1735 K Street, NW 1 202 728 8000
Washington, DC www.finra.org
20006-1506

Ahmed Gadelkareem
March 23, 2017
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FINRA to submit a Form U4 and to keep all information on the Form U4 current and accurate. Accordingly, you must keep your member firm informed of your current address.

In addition, FINRA may request information from, or file a formal disciplinary action against, persons who are no longer registered with a FINRA member for at least two years after their termination from association with a member. *See* Article V, Sections 3 and 4 of FINRA's By-Laws. Requests for information and disciplinary complaints issued by FINRA during this two-year period will be mailed to such persons at their last known address as reflected in FINRA's records. Such individuals are deemed to have received correspondence sent to the last known address, whether or not the individuals have actually received them. Thus, individuals who are no longer associated with a FINRA member firm and who have failed to update their addresses during the two years after they end their association are subject to the entry of default decisions against them. *See* Notice to Members 97-31. Letters notifying FINRA of such address changes should be sent to CRD, P.O. Box 9495, Gaithersburg, MD 20898-9401 or may be updated via FINRA's Individual Snapshot website at <http://www.finra.org/industry/web-crd/crd-residential-change-address-former-finra-registered-representatives>.

* * *

You may appeal this decision to the U.S. Securities and Exchange Commission ("SEC"). To do so, you must file an application with the SEC within 30 days of your receipt of this decision. A copy of this application must be sent to the FINRA Office of General Counsel, as must copies of all documents filed with the SEC. Any documents provided to the SEC via facsimile or overnight mail should also be provided to FINRA by similar means.

The address of the SEC is:

The Office of the Secretary
Securities and Exchange
Commission
100 F Street, NE
Room 10915
Washington, D.C. 20549

The address of FINRA is:

Attn: Celia Passaro
Office of General Counsel
FINRA
1735 K Street, N.W. - 7th floor
Washington, D.C. 20006

If you file an application for review with the SEC, the application must identify the FINRA case number and state the basis for your appeal. You must include an address where you may be served and a phone number where you may be reached during business hours. If your address or phone number changes, you must advise the SEC and FINRA. Attorneys must file a notice of appearance.

Ahmed Gadelkareem
March 23, 2017
Page 3

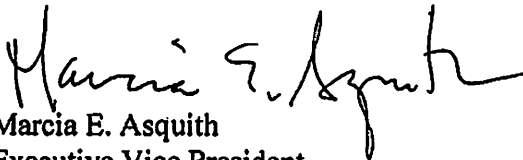
The filing with the SEC of an application for review shall stay the effectiveness of any sanction except a bar. Thus, the bar imposed by the NAC in the enclosed decision will not be stayed pending appeal to the SEC, unless the SEC orders a stay. Additionally, orders in the enclosed NAC decision to pay fines and costs will be stayed pending appeal.

Questions regarding the appeal process may be directed to the Office of the Secretary at the SEC. The phone number of that office is (202) 551-5400.

* * *

If you do not appeal this NAC decision to the SEC and the decision orders you to pay fines or costs, you may pay these amounts after the 30-day period for appeal to the SEC has passed. ~~Any fines and costs assessed should be paid (via regular mail) to~~ FINRA, P.O. Box 418911, Boston, MA 02241-8911 or (via overnight delivery) to Bank of America Lockbox Services, FINRA 418911 MA5-527-02-07, 2 Morrissey Blvd., Dorchester, MA 02125.

Very truly yours,



Marcia E. Asquith
Executive Vice President

Enclosure

cc: Natesha L. Cromwell
Nancy L. Espinosa
David Monachino
Leo F. Orenstein
Jeffrey Pariser
David C. Pollack

BEFORE THE NATIONAL ADJUDICATORY COUNCIL

FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of

Department of Enforcement,

Complainant,

vs.

Ahmed Gadelkareem,
Brooklyn, NY,

Respondent.

DECISION

Complaint No. 2014040968501

Dated: March 23, 2017

Registered representative engaged in abusive, intimidating, threatening, and harassing communications and conduct towards individuals associated with his former member firm. Held, findings modified and sanction affirmed.

Appearances

For the Complainant: Leo F. Orenstein, Esq., David C. Pollack, Esq., David Monachino, Esq.,
Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Pro se

Decision

Respondent Ahmed Gadelkareem appeals a May 2, 2016 Hearing Panel decision. The Hearing Panel barred Gadelkareem for his harassing and threatening conduct after he was terminated by Blackbook Capital, LLC ("Blackbook"). The Hearing Panel found that Gadelkareem "embarked on an extended campaign of repeated phone calls, email communications, and other harassing and threatening conduct directed towards individuals at [Blackbook]." The Hearing Panel found that Gadelkareem's conduct violated FINRA Rules 5240 and 2010 and barred him from associating with a FINRA member in any capacity.

On appeal, Gadelkareem largely admits the underlying misconduct, but he argues that the bar is too severe a sanction given what he claims as mitigating factors, including the absence of customer harm and his claimed medical condition. After an independent review of the record, we modify the Hearing Panel's findings of violation and affirm the sanction as discussed below.

I. Facts

A. Background

Gadelkareem entered the securities industry in 1997 as a general securities representative. Over the next 19 years, Gadelkareem was associated with 19 different firms, including Blackbook from July 2013 to April 2014. Gadelkareem was discharged from two member firms prior to joining Blackbook, including one discharge for his failure to follow management instructions. Gadelkareem also voluntarily left another firm because "he no longer wanted to be employed as a result of a disagreement with management." Gadelkareem is not currently associated with any FINRA member firm.

Several witnesses testified at the hearing that Gadelkareem often argued or had disputes with coworkers at Blackbook, and he was generally a disruptive and aggressive presence in the office. Gadelkareem was described in testimony as unpredictable, argumentative, and someone who often lost his temper when he did not get what he wanted.

B. Gadelkareem Engages in Abusive and Threatening Communications and Conduct Towards Blackbook Associated Persons

On April 2, 2014, Gadelkareem argued with a Blackbook receptionist at the office, who subsequently filed a written complaint with Blackbook against Gadelkareem. Blackbook personnel asked Gadelkareem to leave the office that day, and he was terminated effective April 7, 2014. Blackbook filed a Uniform Termination Notice for Securities Industry Registration ("Form U5"), which stated that Gadelkareem "was terminated for repeatedly engaging in unprofessional conduct in the workplace, including without limitation, threatening and abusive interaction with female employees."

After his termination, Gadelkareem embarked on a campaign of abusive, harassing, and threatening communications directed to Blackbook employees. Gadelkareem's behavior was directed primarily against DH, another Blackbook registered representative, and FO, Blackbook's majority owner and president, both of whom Gadelkareem appeared to blame for his termination and subsequent dispute with Blackbook. Gadelkareem's conduct included numerous telephone calls, emails, and texts, many of which contained vulgar language and threats. Gadelkareem's complaints, in part, concerned his claim that Blackbook was preventing him from retrieving his personal belongings from the office and Blackbook's decision to withhold his last commission check.

On April 9, 2014, Gadelkareem left a voicemail for DH, in which he made a number of vulgar remarks about DH's mother. The next day, Gadelkareem sent numerous emails to RV, another Blackbook owner, accusing DH of unauthorized trading, drug use, and fraternizing with a female employee at Blackbook. He also wrote to RW complaining about FO, who he pointed out was "Nigerian (Nigerian Scam)" and who he accused of "stealing" another registered representative's paycheck. On April 12, Gadelkareem left DH three more voicemail messages, again mentioning DH's mother in a suggestive manner and taunting him with requests to call him back. During the same period, Gadelkareem also repeatedly called and texted FO.

On April 11, 2014, FO emailed Gadelkareem, informing him of the disclosure Blackbook intended to make on his Form U5, inviting Gadelkareem to contact him or another Blackbook employee to arrange to pick up his personal belongings, and asking Gadelkareem to cease his constant calls and text messages to FO and RW. The email also informed Gadelkareem that Blackbook was withholding his last paycheck as allowed under the terms of his employment agreement to offset a claim Blackbook intended to file against him, and warned Gadelkareem that the firm would file harassment charges if he did not cease his harassing behavior. Gadelkareem responded with an email accusing FO of stealing and a "Nigerian scam" and stating that he would continue to contact RW unless RW told him to stop. FO responded by again inviting Gadelkareem to contact someone to make arrangements to collect his personal belongings.

Over the next few days, Gadelkareem continued contacting Blackbook employees. He wrote to FO, accusing Blackbook employees of being criminals and bullying his client into staying with the firm. He repeatedly called another Blackbook employee about his personal belongings, even though that person told him to send his movers to pick up his belongings, which had been packed for him. He also continued repeatedly calling, emailing, and texting DH, who emailed Gadelkareem to stop his harassment.

On April 16, 2014, Gadelkareem forwarded to DH and RW emails to FINRA staff in which Gadelkareem made accusations against Blackbook. In the email to DH, Gadelkareem threatened, "Settlement . . . , my money 100% payout and my stuff or I will keep going ! ! ! !!" Later he wrote to DH again, "Every small thing, my phone charger, my calculator Every thing" To RW, he threatened, "Settlement , Or you want me to continue [sic]" Later that day, MU, an attorney for Blackbook and DH, wrote to the FINRA staff who had received the emails. MU explained that Gadelkareem had been terminated, had harassed and threatened staff at Blackbook, and forwarded their emails to Blackbook representatives for the purpose of pressuring the firm to comply with his demands. That same day, MU also sent Gadelkareem a letter advising him that he had misappropriated client records in violation of his employment agreement and providing formal, written notice demanding that he cease his harassing communications to Blackbook employees. Gadelkareem responded with emails to MU threatening to contact the attorney general and by reporting MU to the New York City Bar Association.

Gadelkareem was undeterred by repeated requests to stop his harassing communications with Blackbook. On April 23, 2014, Gadelkareem forwarded to DH an email which purported to be sent to him from a "Steven Mc Mellon [sic]," a "Principle [sic] Examiner" at FINRA. The email from McMellon said

Mr. Kareem, I have Cc'd Mr. David Gilbert at the FBI on this email. You are 100% right , [DH] did a lot of fraudulent deals , I believe an order of arrest will be issued soon to get him down here .[sic]

In his forwarding email to DH, Gadelkareem wrote, "Run run run." In fact, there was no FINRA employee by the name of Steven McMellon. Gadelkareem fabricated this email in order to intimidate DH and force Blackbook to capitulate to his demands. MU wrote to FINRA staff reporting Gadelkareem's fabrication.

During the following weeks, Gadelkareem's harassing conduct continued. He forwarded the fake McMellon email to others, continued his harassing texts and calls, and filed police reports and a number of lawsuits against Blackbook. He started making harassing communications directed to DH's brother, claiming DH and MU would go to jail. Gadelkareem contacted MU pretending to be a New York City police officer. He also assumed another false identity in communications with a Bloomberg reporter, claiming that FO and Blackbook were defrauding customers and that FINRA and the FBI were investigating. Gadelkareem also made unfounded allegations about Blackbook to customers and business partners, causing Blackbook to lose a deal with a client.

II. Procedural History

On April 13, 2015, the Department of Enforcement ("Enforcement") filed a one-cause complaint against Gadelkareem for sending multiple abusive, harassing, and threatening communications to persons associated with his former member firm, Blackbook, in violation of FINRA Rules 5240 and 2010. The complaint alleged that Gadelkareem embarked on this course of conduct in retaliation for his termination by Blackbook and to force Blackbook to settle his claims with respect to commissions the firm withheld. A two-day hearing was held.

Gadelkareem's harassing conduct continued during the proceedings below. Gadelkareem made a throat cutting motion to DH as he sat down to testify at the hearing. He also filed numerous unfounded complaints against Enforcement and served fabricated subpoenas on witnesses after being instructed repeatedly by Enforcement and the Hearing Officer that such subpoenas were not permitted in FINRA proceedings. Gadelkareem's conduct during the hearing was often aggressive and disruptive.

Following the hearing, the Hearing Panel found that Gadelkareem violated FINRA rules as alleged and rejected his defenses that his misconduct was caused by a "toxic" work environment and his medical condition. The Hearing Panel found that his misconduct was egregious and imposed a bar in all capacities. This appeal followed.¹

¹ On December 6, 2016, Gadelkareem submitted to the subcommittee of the National Adjudicatory Council ("NAC") a filing requesting that it cancel oral argument and indicating that he wanted the subcommittee to decide his appeal on the papers. Gadelkareem also made arguments in this filing about the merits of the appeal and attached several documents including a letter from his former attorney expressing an opinion on the sanction imposed by FINRA, a letter from the Social Security Administration denying his disability claim, and a copy of a settlement agreement between Gadelkareem and Blackbook. Enforcement filed a motion to strike the proffered evidence.

III. Discussion

On appeal, Gadelkareem largely admits his underlying misconduct, but argues that the sanction imposed is excessive. For the reasons discussed below, we agree with the Hearing Panel that Gadelkareem's conduct violated FINRA Rule 2010. We find, however, that FINRA Rule 5240 does not apply to Gadelkareem's misconduct and thus reverse this finding of violation.

A. Gadelkareem's Conduct Violates the Ethical Standards of FINRA Rule 2010

FINRA Rule 2010 is a broad ethical rule which requires members and associated persons to conduct their business in accordance with "high standards of commercial honor and just and equitable principles of trade."² FINRA Rule 2010 encompasses all unethical, business-related conduct, even if that conduct is not in connection with a securities transaction. *See Dep't of Enforcement v. Olson*, Complaint No. 2010023349601, 2014 FINRA Discip. LEXIS 7, at *7 (FINRA Bd. of Governors May 9, 2014), *aff'd*, Exchange Act Release No. 75838, 2015 SEC LEXIS 3629 (Sept. 3, 2015); *see also Vail v. SEC*, 101 F.3d 37, 39 (5th Cir. 1996) (affirming the finding that an associated person violated just and equitable principles of trade by misappropriating funds from a political organization for which he served as the treasurer). Misconduct in connection with an associated person's relationship with his employer constitutes business-related conduct to which the rule applies. *See, e.g., John Joseph Plunkett*, Exchange Act Release No. 69766, 2013 SEC LEXIS 1699, at *23 (June 14, 2013) (finding that, for

[cont'd]

FINRA Rule 9346 limits the submission of new evidence on appeal to "extraordinary circumstances" where there is (1) "good cause" for failing to introduce the evidence at the hearing and (2) the evidence "is material to the proceeding." *See Dep't of Enforcement v. KCD Fin., Inc.*, Complaint No. 2011025851501, 2016 FINRA Discip. LEXIS 38, at *83 (FINRA NAC Aug. 3, 2016), *appeal docketed*, Exchange Act Release No. 78900, 2016 SEC LEXIS 3586 (Sept. 21, 2016). The Subcommittee found that Gadelkareem did not meet this standard, and it denied Gadelkareem's request to introduce the proffered evidence. The NAC adopts the Subcommittee's findings and order. The documents submitted are not relevant to the violation or sanction here. It has long been FINRA's position that documents related to settlements are not relevant to disciplinary proceedings. *See Dep't of Enforcement v. Paratore*, Complaint No. 2005002570601, 2008 FINRA Discip. LEXIS 1, at *13 n.9 (FINRA NAC Mar. 7, 2008). Moreover, the opinion of Gadelkareem's lawyer about the appropriate sanction for his misconduct is irrelevant, as is his eligibility for disability payments. Finally, while the arguments contained in Gadelkareem's submission constitute an unauthorized surreply, those arguments are duplicative of those in his Notice of Appeal, and they are addressed in this decision.

² FINRA Rule 2010 applies to associated persons based on FINRA Rule 0140(a), which provides that associated persons "shall have the same duties and obligations as a member."

purposes of Rule 2010's predecessor rule, a registered representative's business included his relationship with his employer); *Dep't of Enforcement v. Foran*, Complaint No. C8A990017, 2000 NASD Discip. LEXIS 8, at *13 (NASD NAC Sept. 1, 2000) (stating that "[a] registered person's 'business' includes his business relationship with his employer").

It is well established that harassing and abusive conduct violates the broad ethical principle encompassed in FINRA Rule 2010. *See Stephen B. Carlson*, 53 S.E.C. 1017, 1021 (1998) (finding that an associated person's use of "threatening, coercive, and intimidating tactics" violated ethical standards); *Jay Frederick Keaton*, 50 S.E.C. 1128, 1134-35 (1992) (finding that an associated person's use of "abusive misconduct," including threats, violated high standards of commercial honor and just and equitable principles of trade); *Dep't of Enforcement v. McCrudden*, Complaint No. 2007008358101, 2010 FINRA Discip. LEXIS 25, at *25 (FINRA NAC Oct. 15, 2010) (finding that an associated person's use of harassment and intimidation with respect to a Form U5 disclosure violated NASD Rule 2110).

McCrudden, one of our prior cases, is particularly instructive. In that case, McCrudden embarked on an email campaign, which included harassing and intimidating employees of his former firm to coerce his firm into falsely reporting on his Form U5 that he voluntarily terminated his employment. *McCrudden*, 2010 FINRA Discip LEXIS 25, at *18-22. Like Gadelkareem's conduct here, McCrudden's conduct included threatening negative publicity and legal action and disparaging the firm to third parties, including business partners. *Id.* In that case, the NAC found that McCrudden's conduct violated NASD Rule 2110, the predecessor to FINRA Rule 2010. *Id.* at 39.

We agree with the Hearing Panel that Gadelkareem "engaged in an extended course of improper actions," which violated FINRA Rule 2010. Gadelkareem's misconduct included repeated harassing communications to DH, FO, RW, and other Blackbook employees, containing vulgar language and threats. Gadelkareem also made unfounded allegations of fraud against Blackbook and its employees to Blackbook's customers, the press, and other third parties. He filed repeated complaints against Blackbook with the police, filed lawsuits which he admitted were intended to harass, and filed a complaint with the New York City Bar Association against Blackbook's attorney. Gadelkareem falsified an email from a fictitious FINRA examiner to further intimidate Blackbook. As Gadelkareem himself admitted, his campaign of harassment was intended to force a settlement with Blackbook of his claim for commissions.

Accordingly, we find that Gadelkareem's misconduct violated FINRA Rule 2010.

B. FINRA Rule 5240 Does Not Apply to Gadelkareem's Misconduct

Unlike the Hearing Panel, we find that Gadelkareem's misconduct does not violate FINRA Rule 5240. We accordingly reverse this finding.

FINRA Rule 5240, the "Anti-Intimidation/Coordination" rule, provides that

- (a) No member or person associated with a member shall:
- (1) coordinate the prices (including quotes), trades or trade reports of such member with any other member or person associated with a member, or any other person;
 - (2) direct or request another member to alter prices (including a quotation); or
 - (3) engage, directly or indirectly, in any conduct that threatens, harasses, coerces, intimidates or otherwise attempts improperly to influence another member, a person associated with a member, or any other person.

Subsection (b) of FINRA Rule 5240 goes on to enumerate activities related to pricing which, if otherwise lawful, do not violate the rule.

Gadelkareem argues that FINRA Rule 5240 applies to intimidating and harassing conduct with respect to manipulating market prices and does not apply to his misconduct here. Enforcement argues that the language of FINRA Rule 5240 is clear, that the three subparts of Rule 5240(a) are disparate obligations, and that FINRA Rule 5240(a)(3) applies to all intimidating and harassing misconduct regardless of whether it was in connection with manipulative and anticompetitive conduct. We disagree with Enforcement's broad reading of the rule.

Subsection (a)(3) to FINRA Rule 5240 is within a rule aimed at price manipulation and anticompetitive behavior, which supports that it is meant to prohibit intimidating and harassing conduct in connection with pricing. An examination of the history of FINRA Rule 5240 confirms this reading.

In 2009, the SEC issued an order approving the adoption of NASD IM-2110-5 as FINRA Rule 5240 in the FINRA consolidated rulebook "without material change."³ NASD IM-2110-5 was adopted in 1997 as a part of certain undertakings to which the NASD agreed as part of a SEC order imposing remedial sanctions.⁴ Those undertakings were the result of an SEC

³ See *Order Approving Proposed Rule Change to Adopt FINRA Rule 5240 (Anti-Intimidation / Coordination) in the Consolidated FINRA Rulebook*, Exchange Act Release No. 59335, 2009 SEC LEXIS 248, at *1 (Feb. 2, 2009).

⁴ See *Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Interpretation of NASD Conduct Rule 2110 regarding Anti-Intimidation/Coordination Activities of Member Firms and Persons Associated with Member Firms*, Exchange Release No. 38845, 1997 SEC LEXIS 1497, at *1 (July 17, 1997).

investigation and resulting institution of administrative proceedings against NASD concerning anticompetitive pricing practices for NASDAQ stocks.⁵ The SEC investigation revealed that NASDAQ market makers had agreed to certain conventions to coordinate price quotations, and that these conventions were enforced through harassment and intimidation.⁶ In response, NASD proposed NASD IM-2110-5, which would, among other things, "discipline market makers who harass other market makers" for engaging in competitive behavior.⁷

In describing and interpreting NASD IM-2110-5, the SEC discussed each of the three general areas of prohibited conduct that would later become subsections (a), (b), and (c) of FINRA Rule 5240.⁸ With respect to the prohibition on intimidating or harassing conduct, the SEC explained:

The third part of the interpretation relates to conduct that threatens, harasses, coerces, intimidates or otherwise attempts to improperly influence another member *in a manner that interferes with or impedes the forces of competition among member firms* in the NASDAQ market. This part of the prohibition is intended to reach conduct that goes beyond legitimate bargaining among member firms. (Emphasis added.)

We find that the proscription against harassing conduct in FINRA Rule 5240 applies to conduct in connection with coordinating prices, harassing those who refuse to coordinate quotations, and other anticompetitive behavior. Accordingly, Rule 5240 does not apply to Gadelkareem's conduct here, and we dismiss this segment of the findings of violation.

⁵ See Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding NASD and the NASDAQ Market, Exchange Act Release No. 37542, 1996 SEC LEXIS 2121 (Aug. 1996). A copy of the full report pursuant to Exchange Act Section 21(a) ("21(a) Report") can be found at <https://www.sec.gov/litigation/investreport/nd21a-report.txt>.

⁶ See 21(a) Report, 1996 SEC LEXIS 2121, at *3; see also *id.* at 2 ("Market makers that failed to follow these conventions were sometimes subjected to harassment and an unwillingness to trade by other market makers who were attempting to enforce compliance with the conventions.").

⁷ See Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Interpretation of NASD Conduct Rule 2110 regarding Anti-Intimidation/Coordination Activities of Member Firms and Persons Associated with Member Firms, 1997 SEC LEXIS 1497, at *2-3 (internal quotations omitted).

⁸ See *id.* at *4-6.

IV. Sanctions

On appeal, Gadelkareem argues that the sanction of a bar imposed by the Hearing Panel is too severe because: (1) there was no harm to investors; (2) his alleged medical condition and the “toxic” work environment at Blackbook caused his misconduct; and (3) his lack of disciplinary history is mitigating. For the reasons discussed below, we reject Gadelkareem’s arguments and find that a bar is an appropriately remedial sanction for his egregious misconduct.

A. A Bar Is Appropriate for Gadelkareem’s Egregious Misconduct

In determining the appropriate sanction for Gadelkareem’s misconduct, we considered FINRA’s Sanction Guidelines (“Guidelines”),⁹ including the Principal Considerations in Determining Sanctions (“Principal Considerations”). Because there are no specific Guidelines addressing the FINRA Rule 2010 violation here, we look primarily to the Principal Considerations.

We agree with the Hearing Panel that Gadelkareem’s misconduct was egregious, and that the presence of numerous aggravating factors support the imposition of a bar. Gadelkareem’s harassing communications were threatening, hostile, and vulgar. His misconduct was intentional, included numerous communications over a period of weeks, and caused Blackbook to lose a client.¹⁰ Gadelkareem continued his conduct even after he was repeatedly warned that it was harassment. Gadelkareem’s conduct was intended to force a settlement resulting in personal financial gain to him.¹¹ His falsification of emails and impersonation of a police officer and FINRA investigator were intended to conceal his misconduct.¹² We find Gadelkareem’s misconduct in impersonating a FINRA investigator and falsifying an email from this fictitious person to advance and conceal his misconduct particularly troubling and aggravating here. Throughout the proceedings, Gadelkareem failed to take responsibility for his misconduct and, while on appeal he appears to acknowledge that his conduct was wrongful, he still blames Blackbook for inciting him with what he calls a “toxic” work environment.¹³

We, like the Hearing Panel, also are troubled by Gadelkareem’s conduct during FINRA’s investigation and the hearing and find this conduct further aggravating. First, Gadelkareem served subpoenas on witnesses even after repeatedly being told, including by the Hearing

⁹ See *FINRA Sanction Guidelines* (2016), http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf [hereinafter *Guidelines*].

¹⁰ *Id.* at 6-7 (Principal Considerations, Nos. 8, 9, 11, 13).

¹¹ *Id.* at 7 (Principal Considerations, No. 17).

¹² *Id.* at 6 (Principal Considerations, No. 10).

¹³ *Id.* at 6 (Principal Considerations, No. 2).

Officer, that this was not allowed. This conduct is aggravating for purposes of sanctions. *See DBCC v. Connolly*, Complaint No. PHL-731, 1991 NASD Discip. LEXIS 35, at *23 (NASD Bd. of Governors Mar. 12, 1991).

Even more troubling is Gadelkareem's submission of false documents as evidence at the hearing. The Hearing Panel found that Gadelkareem forwarded a fictitious email from a nonexistent FINRA investigator to several people. At the hearing, FINRA's expert credibly testified that based on an examination of the email and its related metadata, it was virtually impossible for it to have been sent by anyone other than Gadelkareem. Rather than admit his earlier deception, however, Gadelkareem concocted a story at the hearing accusing DH of stealing his iPad, hacking into his Wi-Fi, and sending the email to set him up. In support of his story, Gadelkareem offered into evidence an email purporting to be from AOL claiming that his email had been hacked and not under his control during the relevant time period. Enforcement, however, submitted a letter from AOL confirming that this email was fraudulent and not from AOL. The Hearing Panel found that Gadelkareem's evidence was falsified, and we agree.

~~Gadelkareem's attempt to submit false and misleading evidence demonstrates his inability to abide by FINRA rules and strongly supports the imposition of a bar. *See, e.g., Mitchell H. Fillet*, Exchange Act Release No. 75054, 2015 SEC LEXIS 2142, at *56 (May 27, 2015) (finding that intentionally submitting false documents to mislead FINRA is an aggravating factor). It is well settled that "[p]roviding false and misleading information . . . subverts FINRA's ability to carry out its regulatory function and protect the public interest." *See Dep't of Enforcement v. Ortiz*, Complaint No. E0220030425-01, 2007 FINRA Discip. LEXIS 3, at *33 (FINRA NAC Oct. 10, 2007).~~

B. Gadelkareem's Claimed Medical Condition Is Not Mitigating

Gadelkareem presented evidence of his medical condition and his doctor testified at the hearing. On appeal, he argues that his condition and the fact that he is now under the care of a doctor is mitigating. Gadelkareem's argument is unavailing.

A medical condition can mitigate a sanction where the respondent has presented evidence that it interfered with his ability to comply with FINRA rules. *See Paul David Pack*, 51 S.E.C. 1279, 1283 (1994) (allowing mitigation where the respondent introduced uncontroverted medical evidence that respondent's misconduct was the result of his medical condition, including clinical depression and a chronic sleep disorder); *DBCC v. Nelson*, Complaint No. C9A920030, 1996 NASD Discip. LEXIS 17, at *9, 15 (NASD NBCC Mar. 8, 1996) (finding mitigating circumstances where the respondent failed to respond to FINRA's information requests, and respondent was hospitalized or bedridden with chronic fatigue syndrome). In general, however, medical problems do not mitigate violations of FINRA rules and proving mitigation based on a medical condition is a difficult burden to overcome. *See Dep't of Enforcement v. Saad*, Complaint No. 2006006705601R, 2015 FINRA Discip. LEXIS 49, at *9-11 (FINRA NAC Mar. 16, 2015), *aff'd* Exchange Act Release No. 76118, 2015 SEC LEXIS 4176, at *1 (Oct. 8, 2015). Gadelkareem has not met this burden here.

Significantly, Gadelkareem's doctor testified that he was not treating Gadelkareem during the relevant period and could not attest to his condition at the time. Accordingly, there is no evidence of Gadelkareem's inability to comply with FINRA rules at the time of his misconduct due to medical reasons. To the contrary, rather than mitigate his misconduct, the evidence presented by Gadelkareem's doctor further supports that he is not fit to serve as a securities industry professional and should be barred. The doctor testified that Gadelkareem has a history of missing appointments and not taking his medication. Further undermining Gadelkareem's claim that we should consider his medical condition as mitigating is his conduct during the hearing, which included aggressive and disruptive behavior and the submission of falsified evidence at a time when he claims his condition was being treated.¹⁴

C. Gadelkareem's Other Claims of Mitigation Fail

Gadelkareem's other arguments for mitigation are similarly unavailing. It is well established that the lack of customer harm is not mitigating. *See William Scholander*, Exchange Act Release No. 77492, 2016 SEC LEXIS 1209, at *40 (Mar. 31, 2016); *Dep't of Enforcement v. Harari*, Complaint No. 2011025899601, 2015 FINRA Discip. LEXIS 2, at *38 (FINRA NAC Mar. 9, 2015). Moreover, customer harm is not relevant to the violation here which involved harassment of Gadelkareem's former firm, and there is evidence that Gadelkareem caused harm to his firm by causing them to lose a client.

Gadelkareem makes a related argument that FINRA's disciplinary action here and the sanction imposed is not appropriate because the misconduct alleged concerned an employment dispute that was subsequently settled by Gadelkareem and Blackbook. The fact that Gadelkareem and Blackbook settled their claims, however, is not relevant to FINRA's interest in pursuing a disciplinary action for violation of its rules.

Gadelkareem also argues that a bar is excessive in light of his lack of disciplinary history. A respondent's absence of prior disciplinary history is not a mitigating factor. *See John B. Busacca, III*, Exchange Act Release No. 63312, 2010 SEC LEXIS 3787, at *64 n.77 (Nov. 12, 2010), *aff'd*, 449 F. App'x 886 (11th Cir. 2011); *see also Philippe N. Keyes*, Exchange Act Release No. 54723, 2006 SEC LEXIS 2631, at *23 (Nov. 8, 2006) (stating that the absence of disciplinary history is not mitigating because "an associated person should not be rewarded for acting in accordance with his duties as a securities professional"). The fact that Gadelkareem may have previously complied with FINRA rules, does not excuse his serious violation here. Moreover, there is ample evidence in the record of Gadelkareem's past aggressive and harassing behavior in the workplace. The record reflects that rather than being aberrant, Gadelkareem's conduct is part of a longstanding pattern of behavior that continued during the hearing. Rather than mitigating the sanction, this evidence of a pattern of similar misbehavior is a further aggravating factor. *See McCrudden*, 2010 FINRA Discip. LEXIS 25, at *26 (finding that

¹⁴ For these same reasons, we agree that, to the extent Gadelkareem's seeking medical treatment can be considered a "subsequent corrective measure," it is not sufficiently mitigating to overcome the myriad aggravating factors. *See Guidelines*, at 6 (Principal Considerations, Nc. 3).

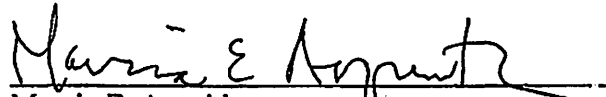
evidence of similar aggressive and abusive behavior with a prior employer was an aggravating factor).

We have no confidence in Gadelkareem's future ability to control his behavior, and we believe he poses a danger to the industry and the investing public. For these reasons, the sanction of a bar is appropriately remedial.

V. Conclusion

Gadelkareem engaged in a campaign of abusive, intimidating, threatening, and harassing communications and other conduct towards his former firm and its associated persons, in violation of FINRA Rule 2010. For this misconduct, Gadelkareem is barred from associating with any member firm in all capacities, effective upon service of this decision. We also affirm the Hearing Panel's order that Gadelkareem pay \$5,649.78 in hearing.

On behalf of the National Adjudicatory Council,



Marcia E. Asquith
Senior Vice President and Corporate Secretary

Exhibit C

BEFORE THE FINRA DISPUTE RESOLUTION

**BLACKBOOK CAPITAL LLC, and
FRANKLIN OGELE**

Claimants,

-against-

AHMED GADELKAREEM

Respondent.

Arbitration # 14-018125

**GLOBAL SETTLEMENT AGREEMENT
AND MUTUAL GENERAL RELEASE**

THIS SETTLEMENT AGREEMENT AND MUTUAL GENERAL RELEASE is made as of the date set forth below (the "Agreement") by and between Claimants BLACKBOOK CAPITAL LLC ("BlackBook"), and FRANKLIN OGELE ("Ogele")(collectively, BlackBook, and Ogele are referred to as "Claimants") and Respondent, Ahmed Gadelkareem ("Respondent" or "Gadelkareem");

WHEREAS, on or about July 2014, Claimants commenced the above-captioned FINRA arbitration against Respondent asserting claims against Respondent;

WHEREAS, Respondent filed an Answer and Counterclaim;

WHEREAS, on May 7, 2014, Respondent filed a complaint with the Supreme Court of New York, Index # CV-012572 asserting claims against Claimants.

WHEREAS, on or about August 14, 2014, Respondent filed a second complaint with the Supreme Court of New York, Index # CV-2230 asserting claims against Claimants

WHEREAS, on or about June 25, 2014, Respondent filed a third complaint with the Supreme Court of New York, Index # CV-1220 asserting claims against Claimants.

WHEREAS, in the matter of CV-012572 and CV-2230, Respondent has been ordered by the New York State Civil Court to submit the matters in controversy to FINRA Arbitration;

WHEREAS in the matters of CV-2230 and CV-1220 Respondent obtained default

judgments for \$5,020.00 and \$1,520.00, both of which were vacated following Claimants' motions to vacate;

WHEREAS, in the matter of CV-1220, Claimant Ogele has moved to compel Respondent to arbitrate before FINRA Arbitration, which hearing is set for December 17, 2015.

IT IS THEREFORE AGREED, in consideration of the mutual promises and covenants below, as follows:

1. Consideration. In consideration for \$7,357.00 payment (presently held by Claimants) by Respondent, which is hereby acknowledged, and execution of the attached letter to Arabia Generale, Inc. (Exhibit A herein) and of the covenants and promises contained herein, including the execution and delivery by Ogele (as Individual Pro Se Claimant) and as Claimant BlackBook's Counsel of the Stipulation of Discontinuance With Prejudice (the "Stipulation of Discontinuance") (attached hereto as Exhibit B), Claimants and Respondent make the mutual general releases as set forth herein.

2. Mutual General Releases.¹

(a) *By Claimants in favor of Respondent/Gadelkareem.*

Upon execution of this Agreement, each of the Claimants, on behalf of themselves and their respective representatives, agents, assignees, heirs, executors, beneficiaries, legal representatives, affiliates, parents, subsidiaries and assigns, hereby waives, discharges and releases the Respondent and his representatives, agents, and attorneys, from any and all actions, causes of action, obligations, liabilities, claims and demands Claimants have or may have, known or unknown, contingent or otherwise, concerning the matters set forth herein regardless of when they accrued until the date this Agreement is executed by all parties.

¹ These Releases shall have no effect on any dealings by the parties with Arabia Generale, Inc.

(b) *By Respondent in favor of Claimants*

Upon execution of this Agreement, Respondent, on his behalf and representatives, agents, assignees, heirs, executors, beneficiaries, legal representatives, affiliates, parents, subsidiaries and assigns, hereby waives, discharges and releases each of the Claimants and their respective representatives, agents, attorneys, parents, subsidiaries, affiliates, and individual members, partners, officers, directors, managers and employees of the foregoing, including but ~~not limited to Leonard Ray Watts and Franklin I. Ogele, from any~~ and all actions, causes of action, obligations, liabilities, claims and demands Respondent have or may have, known or unknown, contingent or otherwise concerning the matters set forth herein and whether specifically mentioned or not, regardless of when they accrued until the date this Agreement is executed by all parties.

3. Withdrawal of Action. Claimants and Respondent authorize their respective attorneys to execute the attached Stipulation of Discontinuance, and to take any and all steps necessary to effectuate dismissal with prejudice of this action, including the withdrawal of any and all appeals. Respondent Gadelkareem shall specifically take any and all steps necessary to effectuate dismissals with prejudice of all the civil cases before the Supreme Court of New York, including the CV-1220 action, including the withdrawal of any and all appeals.

4. Modifications; Entirety Clause. This Agreement may be amended or changed or waived, in whole or in part, only by a written instrument signed by the Parties. This Agreement reflects the entire agreement between the parties regarding the subject matter hereof and fully supersedes any and all prior agreements, negotiations and understandings, whether

verbal or written, between the parties hereto. There is no other agreement except as stated herein. The Parties acknowledge that no individual party nor any of the parties' representatives have made any promises to any other party, whether verbal or written, other than those contained in this Agreement.

5. Advice of Counsel. Each Party hereto acknowledges and agrees that it has received the advice of counsel in connection with entering into this Agreement, and that no Party is relying on any other Party concerning this Agreement or any aspect of the transaction contemplated herein.

6. No Admission of Liability. Nothing in this Agreement shall constitute or be deemed to constitute an admission of fault, wrongdoing or liability on the part of any Party.

7. Applicable Law; Jurisdiction. The Parties hereto consent to the jurisdiction of the Courts of the State of New York located in New York County to resolve any dispute regarding the rights, duties, obligations, and any other matters arising from this Agreement, which shall be governed by and interpreted in accordance with the laws of the State of New York law without reference to conflicts of laws principles.

8. Costs and Attorney's Fees. Claimants and Respondent agree that each shall bear their own costs and attorneys' fees as between them in the arbitration and in connection with the negotiation and execution of this Agreement without any further costs to any Party that is a signatory hereto.

9. Counterparts. The Parties hereto may execute this Agreement in any number of counterparts, each of which shall be deemed an original. All counterparts shall constitute one agreement binding on the Parties regardless of whether all Parties are signatories to the same counterpart, but this Agreement is without effect until all Parties have executed a

counterpart. The Parties hereto agree that any scanned, facsimile or reproduced copy of executed counterparts shall have the same force and effect as the original.

10. IN WITNESS WHEREOF, the Parties to this Agreement have hereunder set their hands as of the date indicated below:

Claimants:

BlackBook Capital LLC

By: _____


Franklin I. Ogele
President and CEO

Dated: _____

12/7/15

Franklin I. Ogele
(individually)

Dated: _____

12/7/15

Respondent

By: _____


Ahmed Gadelkareem

Dated: _____

12/7/2015

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

Exhibit D

Great franchisees. Great brands.™

dineEquity

**Investor Presentation
November 8, 2013**

dineEquity

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Applebees

IHOP

Destiny USA Pancakes, LLC

CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM

**\$3,400,000 Secured Note and Limited
Liability Membership Interests Offering**

Offering Price: \$25,000 per Unit

Minimum Subscription: One Unit

Up to 136 Units Offered To Any Number of Accredited Investors Only

BLACKBOOK CAPITAL

The date of this Private Placement Memorandum is March 20, 2014.

Offeree _____

Document No. _____

Reproduction of This Document Is Not Authorized

Exhibit E

Jamaica



OVERVIEW OF LAND FOR DEVELOPMENT

IN MAMMEE BAY,
OCHO RIOS,
JAMAICA,

Mamsee Bay Resorts Limited had already secured the following:

1. Final Environmental Studies with National Resources Conservation Authority Approval
2. Government Approval for Hotel Enterprise
3. Government of Jamaica 15 Year Tax Incentive Package
4. Town & Country Planning Authority Approval for 354 Room Resort Hotel
5. Fully Approved Hotel Development Plans including Architectural Blueprints for a 354 Room Resort done by the renowned Architectural Firm of Evon Willis and Supercl who has also designed most of the hotels in the Sandals Chains throughout the Caribbean.
6. Ministry of Health Environmental Approval of Resort Hotel Plans

You are invited to convey your interest in and outright purchase or a joint venture project by contacting me for further information and discussion.

L. O. (Tanny) Shirley, JP

Mamsee Bay Resorts Limited

69 Eagle Park Road

Kingston 10, Jamaica

Tele: (876) 906-9448

Fax: (876) 926-4743

Mobile: (876) 999-7015

e-mail: mamseebayresorts@yahoo.com



Mannee Bay Property

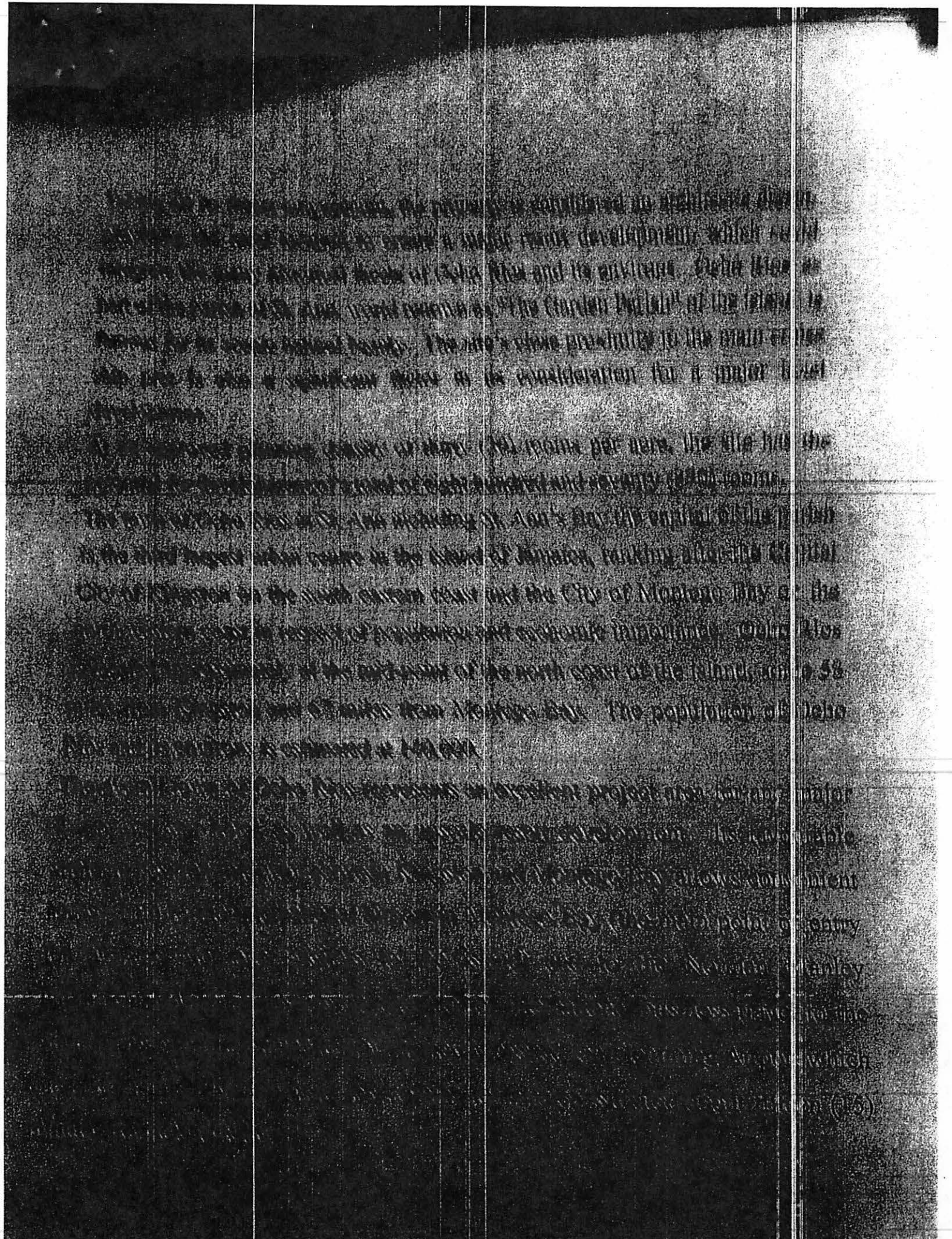


Image © 2011 ConEye

Mannee Bay Resorts Limited (with directors, Lynderon and Madge Whitley) is the proud owner of a magnificent beachfront property on the northern coast of Jamaica, in the West Indies, ideally suited for a major hotel development.

This idyllic 11.84 hectare / 29.25 acre property is one of the largest stretches of unspoilt beachfront sites available on the north coast of Jamaica.

With its magnificent beachfront and warm crystal waters, the property is superbly and strategically positioned on Jamaica's "Golden Strip" on the north coast, beside the well known Beach Resort & Spa Hotel and the Club Hotel. The property is also within its eight kilometre road frontage six (6) kilometres.

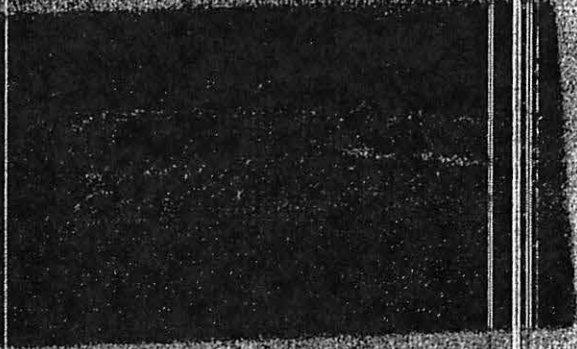
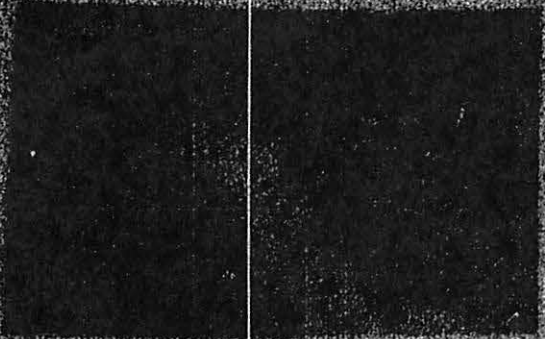


The project is designed to provide a
comprehensive study of the area's
natural resources and its potential for
development. The study will focus on
the area's water resources, particularly
the 'Garden District' of the area.
The study's main objectives are to
provide information for a number of
purposes:

- 1. To determine the area's water resources and their potential for development.
- 2. To determine the area's water resources and their potential for development.
- 3. To determine the area's water resources and their potential for development.
- 4. To determine the area's water resources and their potential for development.
- 5. To determine the area's water resources and their potential for development.
- 6. To determine the area's water resources and their potential for development.
- 7. To determine the area's water resources and their potential for development.
- 8. To determine the area's water resources and their potential for development.

The project is designed to provide a
comprehensive study of the area's
natural resources and its potential for
development. The study will focus on
the area's water resources, particularly
the 'Garden District' of the area.
The study's main objectives are to
provide information for a number of
purposes:

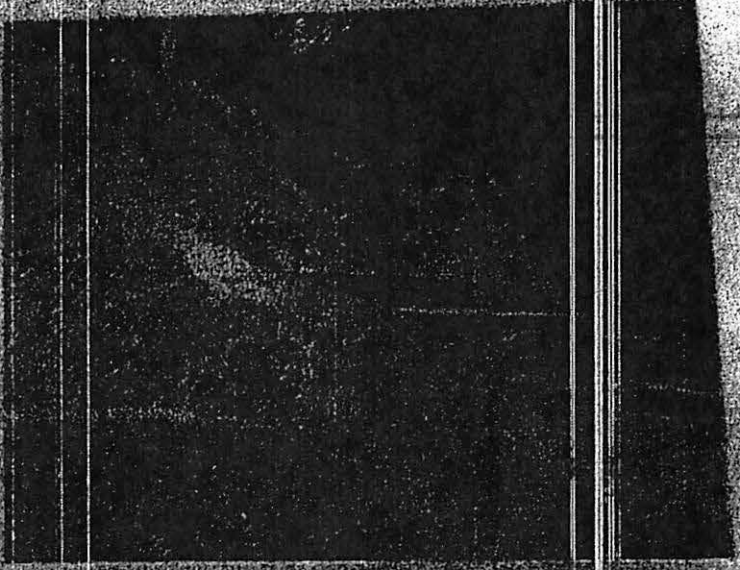
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Level Road Home & Sun Hold

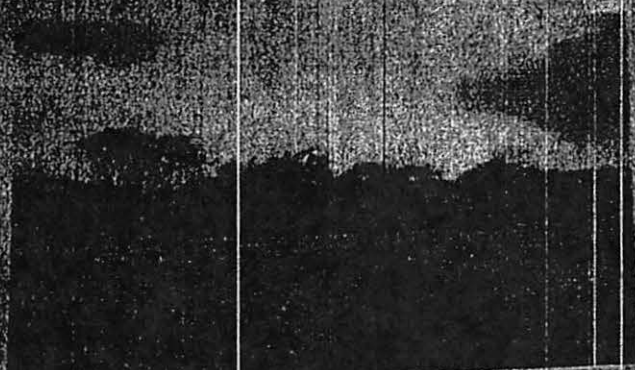
Club Hold Sun Club Home

Located in the center of the course
the property is less than five
miles from the Goho River Town
Square. Further, the property is in
walking distance of the great
Dunn's River Falls which is unique
in its facilities and appearance and
is generally referred to as one of
the three most beautiful and greatest
tourist attractions in the world.



Just a few miles from Dunn's River Falls is another major tourist attraction, the
Mann's Bay Resort, which allows visitors to swim and play with the
Mann's Bay Resort. The Mann's Bay Resort property is also in the
vicinity of the Goho River Town Square and is a beautiful and
great tourist attraction in the world.

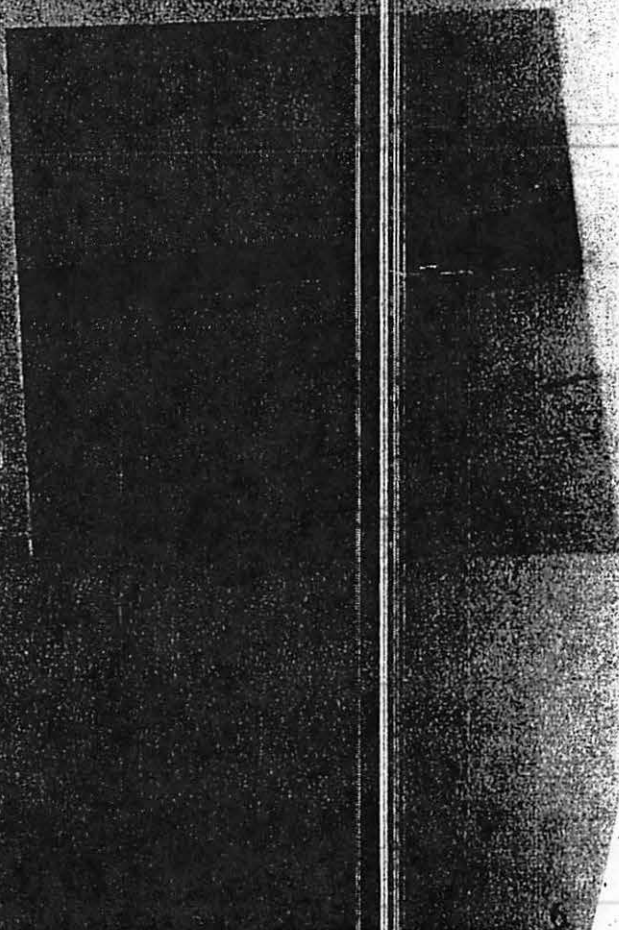
Ocho Rios also boasts Rainforest Bobsted Jamaica at Mystic Mountain, one of the island's newest tourist attractions on 100 acres of land stretching from the coastal road entrance near Dunn's River Falls to over 700 feet above sea level at the peak of Mystic Mountain.



The topography of the Mammee Bay Property boasts a gently sloping vista of prime land. The site itself is relatively flat, with the gentle slope from the main road down to the coast presenting an ideal drainage facility.

The landscape is covered with a wide variety of trees, floral and exotic plants along the coastline of the Garden Parish of Saint Ann. The fertility of the land with its lush greenery, combined with the white sand beach is a beauty to behold.

Located west of Ocho Rios, the land is bounded on the north by the white sand beach coastline, kissing the sea with seemingly unending stretch of pristine white sand beach, measuring over 500 meters/1650 feet of beach front. On the east by the Old Port Bay luxury residential properties, on the west by the upscale Jewel Beach Resort & Spa Hotel and on the south by the Ocho Rios - Montego Bay coastal highway.



SUMMARY

The following is a summary of the information contained in its entirety by the prospectus. This summary is intended to provide you with a brief overview of the information contained in its entirety.

Company

Best Buy USA Pancakes, LLC is a company that is currently operating in the United States.

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We intend to operate multiple units in the United States.