

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 80586 / May 3, 2017

Admin. Proc. File No. 3-17934

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In the Matter of the Application of  
  
AHMED GADELKAREEM  
  
For Review of Disciplinary Action Taken by  
  
FINRA

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Motion filed: April 19, 2017  
Last brief received: April 28, 2017

ORDER DENYING STAY

Ahmed Gadelkareem appeals from a FINRA decision barring him from associating with any FINRA member firm for violating FINRA Rule 2010.<sup>1</sup> Gadelkareem moves to stay the bar pending our consideration of his appeal. FINRA opposes the motion. Gadelkareem's motion is denied.

**I. Background**

On March 23, 2017, FINRA's National Adjudicatory Council ("NAC") issued an opinion finding that Gadelkareem had violated FINRA Rule 2010, which mandates that members and associated persons "observe high standards of commercial honor and just and equitable principles of trade."<sup>2</sup> The NAC found that Gadelkareem violated this rule by embarking "on a campaign of abusive, harassing, and threatening communications" directed at employees of his former member firm, Blackbook Capital, LLC ("Blackbook"), after the firm terminated him. The NAC found that Gadelkareem attempted to harass and intimidate Blackbook by, among other things, sending repeated harassing communications to Blackbook employees, "many of which contained vulgar language and threats"; making unfounded allegations of fraud to

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<sup>1</sup> *Dep't of Enforcement v. Gadelkareem*, Complaint No. 2014040968501, 2017 WL 1195811 (NAC Mar. 23, 2017).

<sup>2</sup> FINRA Rule 2010; *see also* FINRA Rule 0140(a) (stating that persons associated with a member shall have the same duties and obligations as a member under FINRA's rules).

Blackbook's customers, the press, and other third parties; sending a fabricated email from a fictitious FINRA examiner to Blackbook registered representatives; and impersonating a New York City police officer when contacting Blackbook's attorney.

In imposing sanctions, the NAC found that Gadelkareem's misconduct was egregious and warranted a bar. The NAC cited Gadelkareem's harassing and dishonest conduct during the proceedings below as an aggravating factor and rejected Gadelkareem's claim of mitigating circumstances. The NAC concluded that it "ha[d] no confidence in Gadelkareem's future ability to control his behavior" and "believe[d] he poses a danger to the industry and the investing public."

## II. Analysis

In deciding whether to grant a stay under Rule of Practice 401,<sup>3</sup> the Commission considers: (i) the likelihood that the moving party will eventually succeed on the merits of the appeal; (ii) the likelihood that the moving party will suffer irreparable harm without a stay; (iii) the likelihood that another party will suffer substantial harm as a result of a stay; and (iv) a stay's impact on the public interest.<sup>4</sup> The moving party has the burden of establishing that a stay is warranted.<sup>5</sup> Because the first two factors are the most critical, an applicant's failure to demonstrate a likelihood of success or irreparable harm ordinarily will be dispositive.<sup>6</sup>

Gadelkareem has failed to satisfy his burden. His motion contains no mention of whether he is likely to succeed on the merits. Although Gadelkareem's accompanying notice of appeal identifies alleged errors in FINRA's decision, he does not explain in either filing how his appeal is likely to succeed on the merits.<sup>7</sup> Nor does Gadelkareem address whether he will suffer

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<sup>3</sup> 17 C.F.R. § 201.401.

<sup>4</sup> *Mitchell T. Toland*, Exchange Act Release No. 71875, 2014 WL 1338145, at \*2 (Apr. 4, 2014).

<sup>5</sup> *Id.*

<sup>6</sup> *Harding Advisory LLC*, Securities Act Release No. 10330, 2017 WL 1163327, at \*1 (Mar. 29, 2017).

<sup>7</sup> *See, e.g., Richard L. Sacks*, Exchange Act Release No. 57028, 2007 WL 4481516, at \*2 (Dec. 21, 2007) (denying stay, in part, because movant "does not address [first] element at all"); *William Timpinaro*, Exchange Act Release No. 29927, 1991 WL 288326, at \*3 (Nov. 12, 1991) (denying stay where movants "do not make any attempt to demonstrate that they will succeed on the merits" and fail to "make a strong showing on any of the other three criteria").

After FINRA filed its opposition to Gadelkareem's motion, Gadelkareem submitted a one-page response and attached what he termed an "early submission of his supplemental briefing in support of his appeal." To the extent that Gadelkareem intended for that submission to support his motion for a stay, his failure to include those arguments in his opening brief means that they are waived. *See, e.g., Anthony Fields*, Exchange Act Release No. 74344, 2015 WL 728005, at \*19 & n.115 (Feb. 20, 2015). And, regardless, Gadelkareem's supplemental

irreparable harm without a stay. Gadelkareem states only, without further explanation, that he is taking the National Commodities Futures Examination and registering with the National Futures Association (NFA), and that the bar “will result [in] a denial to his registration.” This vague reference to a potential lost employment opportunity is too indistinct to constitute a showing of irreparable harm.<sup>8</sup> We have consistently held that “‘mere injuries, however substantial, in terms of money, time, and energy . . . are not enough’ to constitute irreparable harm.”<sup>9</sup> A denial of registration with a self-regulatory organization, without more, “does not rise to the level of irreparable injury warranting issuance of a stay.”<sup>10</sup>

Gadelkareem’s motion also contains no mention of how a stay might harm others. And given FINRA’s determination that Gadelkareem “poses a danger to the industry and the investing public,” we find that allowing him to associate with a FINRA member firm during the pendency of his appeal raises a substantial risk of harm to the public.<sup>11</sup> We thus find, on balance, that granting a stay would not serve the public interest.<sup>12</sup>

Accordingly, it is ORDERED that Gadelkareem’s motion for a stay is denied.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Brent J. Fields  
Secretary

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submission neither explains how his appeal is likely to succeed on the merits, nor discusses the other factors we consider in deciding whether to grant a stay.

<sup>8</sup> See *Kenny A. Akindemowo*, Exchange Act Release No. 78352, 2016 WL 3877888, at \*2 (July 18, 2016).

<sup>9</sup> *Meyers Assocs., L.P.*, Exchange Act Release No. 77994, 2016 WL 3124674, at \*4 (June 3, 2016) (quoting *Timpinaro*, 1991 WL 288326, at \*3).

<sup>10</sup> See *Toland*, 2014 WL 1338145, at \*2 (quoting *Robert J. Prager*, Exchange Act Release No. 50634, 2004 WL 2480717, at \*1 (Nov. 4, 2004)).

<sup>11</sup> See *Bernard D. Gorniak*, Exchange Act Release No. 35996, 1995 WL 442063, at \*2 (July 20, 1995) (noting that the securities business “presents a great many opportunities for abuse and overreaching, and depends very heavily on the integrity of its participants”) (internal quotation marks and citation removed).

<sup>12</sup> See *Dawson James Sec., Inc.*, Exchange Act Release No. 76440, 2015 WL 7074282, at \*3 (Nov. 13, 2015) (noting that stays with “potential to harm the investing public” do not serve the public interest).