

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98742 / October 13, 2023

Admin. Proc. File No. 3-20682

In the Matter of the application of DEREK RUDOLF D'ALONZO For Review of Action Taken by FINRA
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THIRD ORDER REQUESTING BRIEFING

On December 1, 2021, the Securities and Exchange Commission received FINRA's motion to dismiss an application for review of FINRA action that Derek Rudolf D'Alonzo apparently attempted to file with the Commission. According to the motion, on November 19, 2021, FINRA received D'Alonzo's application for review by email. D'Alonzo apparently sought to appeal an October 21, 2021, Expedited Decision by FINRA's Office of Hearing Officers suspending D'Alonzo from associating with any FINRA member due to his failure to pay an arbitration award or establish a bona fide inability to pay the award. FINRA's motion indicates that D'Alonzo attempted to file his application for review by emailing it to the Commission at the then (and now) defunct apfilings@sec.gov email address. FINRA contends that D'Alonzo's attempted filing does not comply with the Commission's Rules of Practice and should therefore be dismissed without prejudice. D'Alonzo has not responded to FINRA's motion.

On January 5, 2022, we ordered that D'Alonzo either file an application for review that complies with the Rules of Practice or file a brief addressing FINRA's motion to dismiss by January 19, 2022.¹ D'Alonzo did not respond to that order. On July 27, 2022, we again ordered that D'Alonzo either file an application for review that complies with the Rules or file a brief addressing FINRA's motion to dismiss by August 10, 2022.² D'Alonzo again did not respond. As stated in our earlier orders, D'Alonzo must comply with the requirements for filing

¹ *Derek Rudolf D'Alonzo*, Exchange Act Release No. 93910, 2022 WL 44343, at *1 (Jan. 5, 2022).

² *Derek Rudolf D'Alonzo*, Exchange Act Release No. 95370, 2022 WL 2981835, at *1 (Jul. 27, 2022).

documents through the Commission's eFAP system if he wishes to file a compliant application for review with the Commission.³

However, it is unclear whether service of the two earlier briefing orders was properly effected. Given that uncertainty and the unusual procedural posture of this matter, we find it appropriate to renew our order requesting briefing and extend the deadline by which D'Alonzo must file a response to that request.

Under Rule of Practice 180(c), the Commission may dismiss a case "if a person fails to make a filing required under these Rules of Practice."⁴ D'Alonzo's continued failure to respond to the Commission's orders may therefore result in the dismissal of his appeal as abandoned.⁵

Accordingly, it is ORDERED that, by October 27, 2023, Derek Rudolf D'Alonzo either file an application for review that complies with the Commission's Rules of Practice or file a brief addressing FINRA's motion to dismiss. If D'Alonzo files a brief addressing FINRA's motion, FINRA may file a reply by November 3, 2023.

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

Vanessa A. Countryman
Secretary

³ *D'Alonzo*, 2022 WL 2981835 at *1; *D'Alonzo*, 2022 WL 44343 at *1; *See also Instructions for Electronic Filing and Service of Documents in SEC Administrative Proceedings and Technical Specifications*, <https://www.sec.gov/efapdocs/instructions.pdf>.

⁴ Rule of Practice 180(c), 17 C.F.R. § 201.180(c).

⁵ *See, e.g., Michael Patrick Nanto*, Exchange Act Release No. 85436, 2019 WL 1424349 (Mar. 28, 2019) (dismissing application for review of FINRA action as abandoned where applicant failed to respond to FINRA's motion to dismiss).