

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

USTOCKTRADE SECURITIES, INC.  
(CRD No. 16208),

Respondent.

Expedited Proceeding  
No. FPI220001

STAR No. 20220746511

Hearing Officer–BEK

**EXPEDITED HEARING  
PANEL DECISION**

July 12, 2022

**For failing to file its audited annual report, Respondent is suspended and ordered to pay costs. The suspension will convert to an expulsion if Respondent does not file the required report within 30 days of this decision.**

*Appearances*

For the Complainant: Michael Manning, Esq., and Loyd Gattis, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Davina Anderson, President of Ustocktrade Securities, Inc.

**DECISION**

**I. Background**

This expedited proceeding stems from FINRA’s issuance of a Notice of Suspension (“Notice”) to broker-dealer Ustocktrade Securities, Inc. for failing to file its 2021 audited annual report as required by the Securities Exchange Act of 1934 (“Exchange Act”) and FINRA Rules. When Respondent missed its March 1, 2022, filing deadline, FINRA issued the Notice which informed Respondent that if the audited annual report was not filed by April 11, 2022, it would be suspended from FINRA membership and later expelled. The Notice also assessed a \$1,000 late fee. In response to the Notice, Respondent requested a hearing with the Office of Hearing Officers, which stayed the effectiveness of the Notice pending the outcome of the hearing.

The parties participated in a videoconference hearing before a FINRA hearing panel. At the hearing, Respondent conceded that its audited annual report was overdue, but asked

that it (1) not be suspended; and (2) be given until July 30, 2022, to complete and file its 2021 audit report.

For the reasons explained below, the Hearing Panel immediately suspends Ustocktrade's FINRA membership. If Respondent does not file the required report within 30 days of the date of this decision, the suspension will automatically convert to an expulsion.

## **II. Findings of Fact and Conclusions of Law**

### **A. Respondent's Financial Difficulties**

Respondent has been a FINRA member since 1985.<sup>1</sup> Its main office is in Newton, MA. Davina Anderson has served as Respondent's President since July 2020; she was Respondent's representative at the hearing and provided testimony on its behalf.<sup>2</sup> Anderson testified that Respondent has had some difficulties with maintaining its net capital requirements. Respondent failed to meet its minimum net capital requirement from February through March 2021, again from mid-September 2021 through the end of that month, and from the end of 2021 through the present.<sup>3</sup> It ceased its securities business on November 23, 2021. And in a move to protect its customers, Respondent transferred all customer accounts to a clearing firm on January 21, 2022.<sup>4</sup> At this time, Respondent has only two registered principals, Anderson being one of them.<sup>5</sup>

### **B. Respondent Failed to File Its Audited Annual Report**

Respondent admits that it has not filed its 2021 audited annual report which was due on March 1, 2022.<sup>6</sup> Anderson testified that Respondent retained an auditor who began the audit; however, it was unable to pay the auditor to complete the report.<sup>7</sup> Anderson also testified that Respondent expects to secure funding from its parent company by June 30, 2022, and complete its audit by the end of July 2022, but she could not assure the Panel that funding would be secured and the audited annual report completed by those dates.<sup>8</sup> Anderson stated that it was her understanding that there was "some kind of commitment" to provide the required funding, but nothing was in writing.<sup>9</sup>

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<sup>1</sup> Stipulations ("Stip.") ¶ 1; Joint Exhibits ("JX-") 1, at 5.

<sup>2</sup> Transcript ("Tr.") 20; JX-1, at 1.

<sup>3</sup> Tr. 36-37; Stip. ¶ 10.

<sup>4</sup> Tr. 12.

<sup>5</sup> Tr. 13.

<sup>6</sup> Stip. ¶¶ 4-5.

<sup>7</sup> Tr. 11-14, 19, 60.

<sup>8</sup> Tr. 12, 14-15, 19, 27-28, 62-63.

<sup>9</sup> Tr. 27-28.

**C. By Failing to File an Audited Annual Report, Respondent Violated Section 17(e) of the Exchange Act, Exchange Act Rule 17a-5, and FINRA Rule 2010**

Under Section 17(e) of the Exchange Act and Exchange Act Rule 17a-5, registered broker-dealers are required to file an annual financial report audited by an independent public accountant.<sup>10</sup> Respondent admits that it was required to file its audited annual report for 2021 by March 1, 2022, and that it failed to do so. We therefore conclude that Respondent violated Section 17(e) of the Exchange Act and Exchange Act Rule 17a-5. As a result, Respondent also violated FINRA Rule 2010.<sup>11</sup>

**III. Sanctions**

The Hearing Panel has discretion to determine appropriate sanctions in expedited proceedings. Under FINRA Rule 9559(n), it “may approve, modify or withdraw any and all sanctions, requirements, restrictions or limitations imposed by the notice and, pursuant to Rule 8310(a), may also impose any other fitting sanction.”

Enforcement seeks immediate reinstatement of the suspension with an automatic expulsion if Respondent fails to file its audited annual report within 30 days of the Panel’s decision. Enforcement also recommends a waiver of the \$1,000 late fee imposed in the Notice.<sup>12</sup> Respondent, however, seeks an extension of time until July 30, 2022, to permit it to secure funding by June 30, 2022, and complete and submit its audited annual report by July 30, 2022.<sup>13</sup>

In determining the appropriate sanction, we considered not only the arguments of the parties, but the importance of timely filing an audited annual report. To that point, the Securities and Exchange Commission (“SEC”) has described the reporting provisions as important in monitoring the financial status of broker-dealers and protecting investors.<sup>14</sup> According to the SEC, the provisions “involve fundamental safeguards imposed for the protection of the investing

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<sup>10</sup> See, e.g., *Regulatory Operations v. TMR Bayhead Sec., LLC*, Expedited Proceeding No. FPI180002, 2018 FINRA Discip. LEXIS 27, at \*4 (OHO Sept. 10, 2018) (“Section 17(e) of the Securities Exchange Act of 1934 ... and Rule 17a-5(d) thereunder require every registered broker-dealer to file annually a report audited by an independent public accountant.”), *modified*, Exchange Act Release No. 88006, 2020 SEC LEXIS 3103 (Jan. 17, 2020); *Regulatory Operations v. Fairbridge Capital Mkts.*, Expedited Proceeding No. FPI160004, 2016 FINRA Discip. LEXIS 44, at \*8 (OHO July 11, 2016) (same).

<sup>11</sup> FINRA Rule 2010 requires FINRA members to observe “high standards of commercial honor and just and equitable principles of trade.” “Failure to comply with Exchange Act Rule 17a-5 violates FINRA Rule 2010.” *TMR Bayhead Sec.*, 2018 FINRA Discip. LEXIS 27, at \*4.

<sup>12</sup> Tr. 23-24, 69-70.

<sup>13</sup> Tr. 12, 14, 61, 63-64.

<sup>14</sup> *Gremo Invs., Inc.*, Exchange Act Release No. 64481, 2011 SEC LEXIS 1695, at \*14-15 (May 12, 2011).

public on those who wish to engage in the securities business.”<sup>15</sup> “Reporting violations are therefore serious.”<sup>16</sup>

We also considered the likelihood of Respondent securing the funding necessary to meet capital requirements and pay the auditor to complete its audited annual report. Respondent admittedly has had financial difficulties, including the failure to meet net capital requirements several times in 2021 and currently.<sup>17</sup>

Respondent has ceased its securities business and has been operating on a limited budget since the end of 2021. Although Respondent had sufficient funds to retain an auditor in February 2022 and the auditor began work on the audited annual report, it currently lacks the funds to pay the auditor to complete the audited annual report. Moreover, Respondent has been seeking financing for several months, and it has been unsuccessful to date. Although Anderson asserts a belief that financing can be secured by the end of June 2022, she offers no guarantee or assurance that Respondent will succeed by that date or ever. And Respondent’s ability to submit an audited annual report is conditioned on its ability to secure funding.

Finally, we note that after Respondent ceased its securities business on November 23, 2021, it transferred all customer accounts to a clearing firm on January 21, 2022, to protect its customers.

Based on these considerations, we find it appropriate to immediately reinstate the suspension imposed by the Notice. In light of Respondent’s ongoing financial difficulties and its efforts to protect its customers, however, we do not believe the \$1,000 fine imposed by the Notice is necessary for remediation and customer protection. We therefore waive the \$1,000 fine imposed by the Notice. The suspension will convert to an automatic expulsion if Respondent does not file its audited annual report within 30 days after the date of this decision. These sanctions are appropriately remedial and designed to impress upon Respondent and others the importance of timely filing their audited annual reports and to protect the investing public by reducing the likelihood of recurrent violations.<sup>18</sup>

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<sup>15</sup> *Id.* at \*15 (quoting *Fox & Co. Inv., Inc.*, Exchange Act Release No. 52697, 2005 SEC LEXIS 2822, at \*26-27 & n.50 (Oct. 28, 2005)).

<sup>16</sup> *Id.* (citing *Troy A. Wetter*, Exchange Act Release No. 33086, 1993 SEC LEXIS 2870, at \*12 (Oct. 21, 1993) (finding applicant’s failure to timely file an audited annual report to be a serious reporting violation).

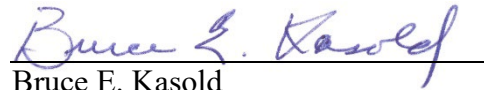
<sup>17</sup> Tr. 36-37; Stip. ¶ 10.

<sup>18</sup> *Cf. Gremo Invs., Inc.*, 2011 SEC LEXIS 1695, at \*15 (upholding sanctions imposed by the FINRA hearing panel for failure to file an annual report by a PCAOB-registered firm “because they will impress upon the Firm and others the importance of filing annual reports that are audited by PCAOB-registered firms in compliance with the federal securities laws and protect the investing public by reducing the likelihood of any recurrence of a violation.”).

#### IV. Order

For failing to file its 2021 audited annual report, in violation of Section 17(e) of the Exchange Act, Exchange Act Rule 17a-5, and FINRA Rule 2010, Ustocktrade Securities, Inc. is suspended from FINRA membership. The suspension will be effective upon the issuance of this Decision.<sup>19</sup>

The suspension will convert to an expulsion 30 days following the date of this Decision if Ustocktrade has not filed its 2021 audited annual report. If Ustocktrade files its audited annual report before it is expelled, then, pursuant to FINRA Rule 9552(f), it may file a written request for termination of the suspension on the grounds of full compliance with this Decision. We waive the \$1,000 fine imposed by the Notice. Finally, Ustocktrade is ordered to pay costs of \$1,503.56, which includes an administrative fee of \$750 and the cost of the hearing transcript. The costs shall be due as of a date established by FINRA.



Bruce E. Kasold  
Hearing Officer  
For the Hearing Panel

Copies to:

Ustocktrade Securities, Inc. c/o Davina Anderson (via email, overnight courier, and first-class mail)  
Loyd Gattis, Esq. (via email)  
Michael Manning, Esq. (via email)  
Jennifer L. Crawford, Esq. (via email)

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<sup>19</sup> The Hearing Panel has considered and rejects without discussion all other arguments of the parties.