

**NASD OFFICE OF HEARING OFFICERS**

DEPARTMENT OF MARKET REGULATION

Complainant,

v.

Respondent.

Disciplinary Proceeding  
No. CMS040202

Hearing Officer – AWH

**ORDER DENYING MOTION FOR ORDER TO CEASE AND DESIST**

On March 2, 2005, Respondent filed a motion requesting that the Hearing Officer order NASD to cease and desist from “issuing misleading press releases” and “any public statements in any form regarding these Proceedings until they are concluded.”

Respondent states that he seeks the equivalent of a “judicial gag order;” the issuance of a press release correcting one that was issued on February 24, 2005, regarding the Complaint in this case; and the names and job titles of persons who were responsible for the press release issued on February 24, 2005, regarding the Complaint against him. On March 16, 2005, the Department of Market Regulation filed its Opposition to Respondent’s Motion.

Any press release relating to a disciplinary proceeding, issued by NASD, is not evidence that supports the allegations in the complaint in that proceeding. Moreover, the release of information in a disciplinary complaint is governed by IM-8310-2, and is not covered by the Code of Procedure contained in the Rule 9000 Series. Accordingly, Respondent’s request for relief is beyond the jurisdiction of the Hearing Officer; and, in any event, the substance of the complained of press release cannot have any bearing on

**This Order has been published by NASD's Office of Hearing Officers and should be cited as OHO Order 05-08 (CMS040202).**

the outcome of decision in this proceeding. As a result, Respondent's motion must be, and is, *denied*.

**SO ORDERED.**

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Alan W. Heifetz  
Hearing Officer

Dated: March 18, 2005