

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PETER J. FETHERSTON
(CRD No. 2108610),

Respondent.

Disciplinary Proceeding
No. 2020065396501

Hearing Officer– DRS

**ORDER GRANTING, IN PART, RESPONDENT'S MOTION TO EXTEND TIME TO
FILE OBJECTIONS**

Under the Case Management and Scheduling Order (“CMSO”), the deadline for the parties to file, among other things, objections to proposed exhibits was November 22.¹ On November 18, Respondent Fetherston filed a motion seeking a three-week extension of time—until December 13—to object to Enforcement’s proposed exhibits. As good cause for the extension, Fetherston argues that Enforcement produced “over several thousand pages of documents that took weeks to review.”² And, the motion continues, given that Fetherston’s counsel is a sole practitioner, he was unable to review the production in time to meet the deadline for filing objections to Enforcement’s proposed exhibits.

Enforcement opposed the motion on November 23, asserting that Fetherston failed to show good cause for an extension. Enforcement claims that Fetherston demonstrated no connection between his review of the discovery materials and his purported inability to timely object to Enforcement’s proposed exhibits. Moreover, according to Enforcement, it produced to Fetherston the entire discovery file over five months ago (June 16), and the production comprised the equivalent of less than two Bankers Boxes (around 4,800 pages). Further, Enforcement represents that it provided copies of the 74 proposed exhibits (around 1000 pages) to Fetherston over six weeks ago (October 7).³

¹ CMSO 4.

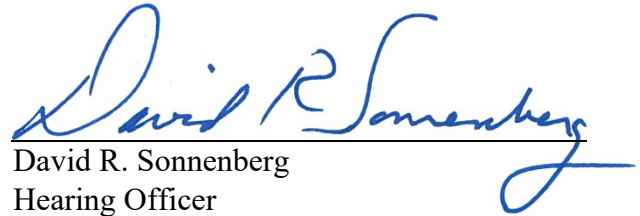
² Mot. 1.

³ Both parties cite FINRA Rule 9222(a) as governing the motion. But this rule is inapplicable—it applies only to extending or shortening “time limits prescribed by the Code for the filing of any papers” or postponing or adjourning a hearing. The motion seeks to extend a filing deadline in the CMSO that is not prescribed by the Code.

Enforcement's points are well taken. It appears that counsel had ample time to review the discovery file and exhibits and prepare his objections, considering the size of the discovery file, the number of exhibits, and that counsel is a sole practitioner. On the other hand, the hearing is over six weeks away (January 9); the final prehearing conference is over five weeks from now (January 3); and an extension of some length is unlikely to prejudice Enforcement. Nor has Enforcement argued it would be prejudiced if I granted an extension. As a result, under the totality of the circumstances, I find that a two-week—rather than three-week—extension is reasonable.

For good cause shown, the motion is **GRANTED, IN PART**. The new deadline for Fetherston to file his objections to Enforcement's proposed exhibits is **December 6, 2022**.⁴ Enforcement's deadline for filing its response to Fetherston's objections is extended from December 2 to **December 16, 2022**.

SO ORDERED.


David R. Sonnenberg
Hearing Officer

Dated: November 25, 2022

Copies to:

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⁴ Fetherston is reminded that under the CMSO § VI.D.3, before serving objections to Enforcement's proposed exhibits, he must confer with Enforcement to attempt to resolve the objections. Also, he may not file objections unless he certifies in writing that he attempted to resolve them with Enforcement. Finally, I may deem waived any objections that Fetherston does not make by the deadline contained in this order.