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FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, Complainant, v. JORGE A. REYES (CRD No. 4256834), Respondent.	Disciplinary Proceeding No. 2016051493704 Hearing Officer–DW

OMNIBUS ORDER ON PRE-HEARING MOTIONS

I. Background

The Department of Enforcement's Complaint charges Respondent Jorge Reyes with engaging in fraud as part of three private placement offerings, misappropriating customer funds, and engaging in other misconduct. Reyes denies participating in any of the alleged misconduct.

A hearing on the claims and defenses commences on July 15, 2019 in Boca Raton, Florida. The parties have made a number of motions in advance of the hearing. This Order resolves the pending and fully briefed motions as explained below.

II. Respondent's Motion Pursuant to FINRA Rule 9252

A. Background

Reyes moves under FINRA Rule 9252 for an order requiring Enforcement to invoke FINRA Rule 8210 to compel the presence of a witness, PW, at the hearing.

According to Reyes, the witness was senior vice president and head of investment banking at CP Capital Securities, the firm responsible for the private placements at issue in this case. Reyes says that the witness "will provide relevant testimony as to, among other things, operations, procedures, compliance, supervision, oversight, suitability," as well as testimony related to the approval of sales and marketing material used in connection with the private placements at issue.[1] The motion states that PW remained registered with a FINRA member through at least December 2018, and is therefore subject to FINRA's jurisdiction. The motion

[1] Respondent's Motion at 1.

does not describe any efforts to obtain PW's appearance, or whether PW—a resident of Miami, Florida—is willing to appear voluntarily.

Enforcement opposes the motion, arguing that any testimony that PW might provide is irrelevant. It notes that Reyes allegedly made unsuitable investment recommendations and sold the fraudulent private placement investments at issue through CP Capital Securities between May 2013 and June 2015. But according to his Central Registration Depository ("CRD") Report, PW did not begin working for the firm until July 2015, shortly after the alleged misconduct ended. While Reyes allegedly converted and misused investor funds in early to mid-2016—during PW's tenure at CP Capital Securities—Enforcement notes that Reyes makes no assertion in his motion that PW has any knowledge or information pertinent to Reyes' alleged conversion, use of investor money, or any other aspect of the claimed misconduct.

B. Applicable Law

Under Rule 9252, a respondent may request that the Hearing Officer order Enforcement to invoke Rule 8210 to compel the production of documents or testimony from entities or individuals that are subject to FINRA's jurisdiction. Rule 9252(a) states that the request must describe with specificity the testimony sought, why the testimony is material, and the requesting party's previous good faith efforts to obtain the testimony through other means, and state whether the person requested to testify is subject to FINRA's jurisdiction.

FINRA Rule 9252(b) further provides that "[t]he Hearing Officer may grant such a request only upon a showing that the information sought is relevant, material, and non-cumulative; that the requesting party has previously attempted to obtain the documents or testimony through other means, but has been unsuccessful; and that the person from whom the documents or testimony is sought is subject to FINRA jurisdiction."[2]

Rule 9252(c) gives the Hearing Officer the authority, after consideration of all the circumstances and after determining that a request is "unreasonable, oppressive, excessive in scope or unduly burdensome," to grant the request "only upon such conditions as fairness requires."

C. Discussion

I find that Reyes has not established his entitlement to relief. First, Reyes has not shown that PW's testimony will be relevant, material and non-cumulative. He offers little more than boilerplate regarding "procedures," "operations" and "supervision" without any discussion of why the testimony might shed light on some material issue. In assessing whether the witness will offer relevant testimony, I find it significant CP Capital Securities did not employ PW until after much of the charged conduct took place. Reyes never explains how the witness might offer useful information or insight into the operation and function of a firm during periods before he

[2] OHO Order 08-12 (2005003188901) (Aug. 27, 2008), at 2, http://www.finra.org/sites/default/files/OHODecision/p118011_0.pdf.

worked there. And as to the conversion misconduct that allegedly took place during PW's tenure with the firm, there is no suggestion in Reyes' motion that PW has any relevant knowledge of that conduct at all. To the extent that the witness can offer only high-level, general background information regarding the firm, Reyes offers no explanation as to why PW's perspective would be of any particular value and not cumulative of the other evidence presented at the hearing.[3] In addition, Reyes has not made the requisite showing that he previously attempted in good faith to obtain the appearance and testimony of the witness and was unable to do so. Because Reyes has not made an adequate showing in these respects, his Rule 9252 request is **DENIED**.

III. Enforcement's Motion for An Order Requiring Production of Documents and Information Regarding Respondent's Interactions with Investor RS

A. Background

Among the misconduct described in the Complaint, Reyes allegedly converted $170,000 from RS, who provided money for various investments that Reyes allegedly spent on his own personal expenses. On May 21, 2019, Enforcement received an email from RS stating his unwillingness to testify in the upcoming hearing. The email also attached an affidavit stating that RS was withdrawing his complaint against Reyes. Enforcement suspects that Reyes played a role in the events leading to RS's absence and has "serious concerns about the provenance of [his] affidavit."[4] In light of its suspicions, Enforcement moves for an order pursuant to FINRA Rules 8210 and 9235(a) requiring Reyes and his counsel to (1) describe all contacts in the past six months with RS, and (2) produce all communications between Reyes or his counsel and RS, his family members, or their agents within the last six months.[5]

According to Enforcement, the requested additional discovery is necessary to determine whether there has been an improper attempt to influence the integrity of this proceeding. Enforcement supports its motion with a staff declaration and accompanying exhibits.[6] Enforcement's evidence shows, among other things, RS's prior willingness to cooperate in the matter and provide his evidence. RS had previously made verbal and written statements to Enforcement implicating Reyes in wrongdoing. RS claimed that he provided Reyes funds based upon Reyes' representations that the money was going to be used in certain investments. RS also reported that he never received his money back and feels "defrauded, cheated and robbed."[7] RS

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[3] OHO Order 16-14 (2015044379701) (Mar. 25, 2016), at *2-4, https://www.finra.org/sites/default/files/OHO_Order16-14_2015044379701_0_0_0.pdf (Denying request for documents and testimony regarding general bank policies, procedures and practices pursuant to Rule 9252 where respondent failed to show such information was material to the issues at hand and not cumulative of other information).

[4] Enforcement's Motion at 1.

[5] Enforcement's Motion at 1.

[6] *Dep't of Enforcement v. Harrington,* No. 2015047303901, 2018 FINRA Discip. LEXIS 31, at *12–13 (OHO Nov. 12, 2018).

[7] Enforcement's Motion at 4.

also charged that Reyes caused him to sign false documents to be provided to FINRA "[u]nder threat of losing part of the money of my family['s] lifetime savings."

Enforcement also exhibited RS's most recent correspondence and affidavit, where he says that he was solicited by other individuals other than Reyes, and that Reyes "was not in most of those . . . meetings" where his investment was discussed. RS now says that his prior claim that Reyes stole his money "is a false statement." RS also hopes FINRA and Reyes "accepts this letter and affidavit as his sincere apology" and would like to hear from Reyes now that he has withdrawn his complaint.

After receiving the affidavit, Enforcement spoke to RS again. RS denied that Reyes discussed the affidavit with him. Yet RS confirmed his earlier statements that he provided Reyes the money for his investments. RS also confirmed that he did not authorize Reyes to use the money on personal expenses. He stated that he is no longer willing to testify, as he was under pressure from family members not to testify and wanted to put the matter behind him.[8]

Enforcement further represents that Reyes identified RS's affidavit on a list of proposed exhibits exchanged between the parties.[9] In response to the motion, Reyes submitted the following statement through counsel: "Mr. Reyes represents that he has not had any contact or communication with [RS], or any family member of [RS] or any agent of [RS]."[10]

B. Applicable Law

FINRA Rule 8210(a) provides that either an adjudicator or FINRA staff "shall have the right" to require an associated person to provide information for the purpose of a "proceeding," as well as an investigation, complaint, or examination. The rule can be employed in the course of a disciplinary proceeding "(1) to obtain evidence for use at the hearing; (2) to narrow the issues; and (3) to secure information as to the existence of evidence that may be used at the hearing."[11]

Despite these general purposes, "principles of fairness and efficiency in the conduct of the proceeding dictate that the Department's ability to use Rule 8210 during the pendency of a proceeding is not unfettered."[12] Under Rule 9235(a), a Hearing Officer is authorized "to do all things necessary and appropriate to discharge his or her duties." This authority includes overseeing "the Department's use of Rule 8210 during the course of a proceeding to ensure a

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[8] Mora Affidavit at 3-4.

[9] Mora Affidavit at 4.

[10] Respondent's Response at 1.

[11] OHO Order 15-03 (2013036217601) (Feb. 13, 2015), at 4, http://www.finra.org/sites/default/files/OHO-Order-15-03-ProceedingNo.201303621760_0.pdf, citing OHO Order 13-02 (2011026874301) (Mar. 13, 2013), at 4, http://www.finra.org/sites/default/files/OHODecision/p229436_0.pdf.

[12] OHO Order 07-23 (2006004494201) (June 13, 2007), at 3; *see also* OHO Order 01-04 (CAF000045) (Feb. 14, 2007) at 9 (same).

fundamentally fair proceeding."[13] In other words, "the Hearing Officer has an obligation to ensure that Enforcement does not abuse its post-Complaint Rule 8210 authority."[14] Thus, the Hearing Officer must "balance Enforcement's need for the requested information and its value to resolving the issues in dispute in the proceeding on the one hand against the prejudice, if any, that will result" to Respondent by compelling compliance.[15]

C. Discussion

Enforcement seeks an order invoking the rule to require Reyes and his counsel to produce information regarding their contacts with RS. It maintains that evidence of these contacts, if any, may be relevant in two respects. First, Enforcement maintains that if the communications show efforts to influence or intimidate RS, this would amount to misconduct akin to witness tampering. Such misconduct could be relevant, at a minimum, to potential sanctions against Reyes. Second, Enforcement maintains that the contacts are relevant to the reliability of the RS affidavit that Enforcement expects Reyes to offer at the hearing.

I agree with Enforcement that any communications between Reyes and RS are relevant. Should evidence of these communications demonstrate that Reyes caused a witness to decline to appear or proffer false evidence, such efforts to impede the disciplinary process could be relevant to the Hearing Panel's determination of potential sanctions, among other considerations.[16]

Enforcement also maintains that any such contacts might be relevant to the admissibility of the RS affidavit that Reyes may attempt to offer into evidence. Although a hearsay affidavit may be admissible in this forum, its admissibility is not without qualification. "In determining whether to rely on hearsay evidence, it is necessary to evaluate its probative value and reliability, and the fairness of its use."[17] Hearsay affidavits, even if given under oath, "should not be

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[13] OHO Order 07-23, at 3; *see also* OHO Order 01-04, at 9 (concluding that the use of Rule 8210 in a disciplinary proceeding should "be monitored by the Hearing Officer when needed to maintain a fundamentally fair proceeding."). *See* Section 15A(b)(8) of the Exchange Act, which requires that "[t]he rules of the association … provide a fair procedure for the disciplining of members and persons associated with members …."

[14] OHO Order 01-01(C10000172) (Jan. 23, 2001), at 3. "A party violates the spirit of FINRA's rules when the party attempts to use Rule 8210 as a 'tactical weapon[] rather than to expose the facts and illuminate the issues by overuse of discovery or unnecessary use of defensive weapons or evasive responses.'" OHO Order 13-02 (2011026874301) (Mar. 13, 2013), at 4.

[15] OHO Order 00-21 (C3A990071) (Aug. 2, 2000), at 7, http://www.finra.org/sites/default/files/OHODecision/p007924_0.pdf.

[16] *Dep't of Enforcement v. Luo*, No. 2011026346206, 2017 FINRA Discip. LEXIS 4 (OHO Jan. 13, 2017) (respondent persuading customer to sign false affidavit considered as an aggravating factor); *Joseph J. Barbato*, Exchange Act Release No. 41034, 1999 SEC LEXIS 276, at *50 (Feb. 10, 1999) (considering as an aggravating factor that the respondent asked witness to change his testimony).

[17] *Charles D. Tom*, 50 S.E.C. 1142, 1145 (1992).

admitted if they are unreliable."[18] In making this assessment, "[t]he factors to consider include the possible bias of the declarant, the type of hearsay at issue, whether the statements are signed and sworn to rather than anonymous, oral or unsworn, whether the statements are contradicted by direct testimony, whether the declarant was available to testify, and whether the hearsay is corroborated."[19] Consistent with these considerations, Reyes' communications with RS leading up to the creation of the witness' affidavit are relevant to an assessment of the potential admissibility of the evidence.[20]

For those reasons Enforcement has adequately shown that it seeks relevant evidence. In response, Reyes raises no legal or factual objection to the discovery Enforcement seeks. Consequently, I consider any potential objections abandoned by Reyes.[21] Because Reyes' response suggests that no communications exist, there is no particular burden associated with requiring him to respond. And relief appears to be warranted given the somewhat equivocal nature of Reyes' response. While the response asserts that Reyes has not communicated with RS, it does not state whether he has recently communicated with the witness through counsel.

Accordingly, Enforcement's Motion is **GRANTED**. By July 2, 2019, Reyes shall produce to Enforcement (1) a document that describes all contacts within the past six months with RS, whether individually or through counsel, and (2) all communications between Reyes or his counsel and RS, his family members, or their agents within the last six months.

IV. Respondent's Motion For An Order Requiring the Department of Enforcement To Produce Documents and Information Regarding Interactions With Respondent's Customers

Reyes moves for an order requiring production of "any documents and information pertaining to any conversation or correspondence between the Enforcement staff and Respondent's customers."[22] Reyes notes that his request is reciprocal to the motion made by Enforcement and maintains that he should "be afforded the same opportunity as Enforcement to obtain documents relevant to these issues."[23]

According to Reyes, "Enforcement staff has apparently contacted Respondent's customers and has made promises of assistance with those customers to obtain restitution of their investments." Reyes does not identify the source of his contention, or support his claim with an

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[18] OHO Order 00-24 (C3A990071) (Aug. 28, 2000), at 7, http://www.finra.org/sites/default/files/OHODecision/p007930_0_0.pdf.

[19] *Tom*, 50 S.E.C. at 1145.

[20] OHO Order 00-24, at 7-8 (ordering the Department of Enforcement to produce its communications with customers when proffering affidavits from those customers).

[21] FINRA Rule 9146(d).

[22] Respondent's Motion at 2.

[23] Respondent's Motion at 2.

accompanying declaration or any other evidence. He claims that he is entitled to material exculpatory evidence pursuant to FINRA Rule 9251(b)(3) and suggests (without explanation) that the documents and information he seeks are exculpatory evidence and should be produced.[24]

Enforcement opposes the motion. It argues that the motion is untimely, as the time for discovery motions has past and Reyes identifies no good cause for his tardy application. Reyes failed to meet and confer prior to seeking relief. Moreover, Enforcement maintains that none of the documents Reyes seeks are properly subject to production. Enforcement has obtained no substantive documents or materials from any customer since filing its Complaint. It maintains that there are only two categories of documents that fit Reyes' request: 1) "entirely non-substantive" witness communications regarding availability, travel plans and scheduling, and 2) investigative interview notes that have been properly withheld. Enforcement notes that it has recently produced to Reyes notes related to two interviews whose substance it expects to offer through an investigator at the hearing. The remaining notes are properly withheld as work product, as I previously ruled in an order denying Reyes' Motion Pursuant to Rule 9253.

I agree with Enforcement that the motion is untimely, and that Reyes failed to meet and confer before bringing his application. Moreover, on the showing made by Reyes there is no good cause to order the production of non-substantive scheduling communications. As for the memoranda of interview, Enforcement admits that it discussed with customers the possibility that it might seek restitution, but denies that it offered any "quid pro quo" to any witness or offered to seek restitution for customers in exchange for testimony. It explains that "customers were informed that, while Enforcement may seek restitution, there was no guarantee that the customers would recover any money through the disciplinary proceeding."[25]

"[M]aterial exculpatory evidence" as contemplated by FINRA Rule 9251(b)(3) includes impeachment evidence.[26] And evidence reflecting a witness' awareness of the possibility of some personal financial benefit associated with Enforcement's success at the hearing shows some degree of interest or bias on the part of the witness. It is therefore impeachment evidence. The absence of a "quid pro quo" arrangement is not dispositive.[27] But that said, an interest of this sort on the part of an alleged victim who is a witness is well known to a respondent. The pleadings make clear that Enforcement is seeking relief that might benefit those that it claims suffered losses. And now Enforcement has submitted a sworn declaration evidencing its

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[24] Respondent's Motion at 2.

[25] Enforcement's Opposition at 6.

[26] OHO Order 10-06 (2008014621701) (Oct. 8, 2010),, at *2, http://www.finra.org/sites/default/files/OHODecision/p122656_0_0_0_0.pdf; *see, e.g., Douglas v. Workman*, 560 F.3d 1156, 1172-73 (10th Cir. 2009) ("[N]o distinction is recognized between evidence that exculpates a defendant and evidence that the defense might have used to impeach the witnesses by showing bias and interest.") (quotation omitted).

[27] *See U.S. v. Bagley*, 473 U.S. 667, 683 (1985) ("The fact that the stake was not guaranteed through a promise or binding contract, but was expressly contingent on the Government's satisfaction with the end result, served only to strengthen any incentive to testify falsely in order to secure a conviction.").

disclosure to Reyes of its discussions with customers regarding the possibility of restitution. Any disclosure obligation on Enforcement's part is satisfied.[28] Reyes does not explain why more should be required.[29]

Accordingly, Reyes' motion is **DENIED**.

V. Reyes' Motion for Continuance

A. Background

Reyes moves to adjourn the July 15, 2019, hearing for an unspecified period of time. This case was filed on December 11, 2018, and since at least that time Reyes has been represented by counsel. According to Reyes, he retained new counsel shortly before a June 11 prehearing conference. Counsel learned that a response to a motion was due the next day, and prehearing submissions were due three days later, on June 14. The parties agreed to extend the deadline for the submission of prehearing materials until June 18, 2019, and I entered an order consistent with that agreement.

Reyes asserts that "those few extra days were hardly sufficient for counsel to adequately respond in a manner that would afford [him] a full and fair opportunity to be heard."[30] He asserts that meeting the agreed-upon deadlines for prehearing submissions imposed an "unrealistic" burden. So Reyes made no pre-hearing submissions and now seeks a continuance, maintaining that he should be "given adequate time to prepare" in advance of the hearing.

Enforcement opposes the motion. It notes that while Reyes seeks an adjournment of the hearing date, he does not claim to be unable to be ready for the hearing as presently scheduled. Instead, he claims that he could not meet the deadline for pre-hearing submissions, despite having agreed to a joint motion providing him additional time for those very submissions.

B. Applicable Law

FINRA Rule 9222 governs requests to postpone a disciplinary hearing. "A hearing shall begin at the time and place ordered," the Rule states in relevant part, "unless the Hearing Officer,

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[28] OHO Order 04-01 (CAF030014) (Mar. 18, 2004), at 10, http://www.finra.org/web/groups/industry/@ip/@enf/@adj/documents/ohodecisions/p014459.pdf ("There is no suppression when the information is already known to the defense and when such knowledge would have allowed the defense to take advantage of such exculpatory evidence."); *John Thomas Capital Mgmt. Grp. LLC*, Exchange Act Release No. 71021, 2013 SEC LEXIS 3860, at *17 (Dec. 6, 2013) ("the Division can satisfy its obligations by providing the respondent with the substance of the materially exculpatory statements; it need not turn over the documents themselves.").

[29] Had Reyes met and conferred on the issue before filing his motion, he might have been able to more specifically address any areas of remaining dispute.

[30] Respondent's Motion to Adjourn Final Hearing at 2.

for good cause shown, . . . postpones the commencement of the hearing . . ."[31] Any postponement "shall not exceed 28 days unless the Hearing Officer states on the record or provides by written order the reasons a longer period is necessary."[32] The primary purpose of the Rule is "to ensure prompt resolution of [FINRA's] disciplinary proceedings, which is necessary to enable [FINRA] to carry out its regulatory mandate and fulfill its responsibilities in protecting the public interest."[33]

The Rule specifies five factors I must consider when deciding whether to grant a postponement: (1) the length of the proceeding to date; (2) the number of postponements, adjournments, or extensions already granted; (3) the stage of the proceedings at the time of the request; (4) potential harm to the investing public if an extension of time, adjournment, or postponement is granted; and (5) such other matters as justice may require. "A Hearing Officer has broad discretion to grant or deny an extension of time, taking into account the particular facts and circumstances."[34]

C. Discussion

After considering the facts and circumstances, including the five factors provided by Rule 9222, I find that Reyes has not shown good cause for a postponement of the hearing. This proceeding has been pending since December 2018. I have previously granted Reyes extensions of time to answer the complaint and to make his prehearing submissions. The time for hearing is fast approaching, and logistical and other arrangements have already been made. Moreover, the matter involves serious charges involving fraud and deception which, if proven, represent a substantial threat to the investing public.

I take into account that Reyes has recently changed attorneys and his new counsel contends that he needs more time to prepare. But a change in counsel late in the litigation, without more, does not entitle a respondent to delay the proceedings. New counsel is obliged to conform to the existing schedule, not the other way around.[35] And Reyes admits in his motion that "the short timeframe until the commencement of the hearing . . . is not the basis for this request."[36] Instead, he says that he simply could not meet the June 18, 2019 deadline for

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[31] FINRA Rule 9222(b).

[32] FINRA Rule 9222(b)(2).

[33] *Dep't of Enforcement v. Respondent 1 and Respondent 2*, No. 2009019108901, 2013 FINRA Discip. LEXIS 48, at *12–13 (OHO Jan. 2, 2013) (quoting OHO Order 06-28 (CLI050007) (internal quotation marks omitted)).

[34] *Respondent 1 and Respondent 2*, 2013 FINRA Discip. LEXIS 48, at *13 (citing OHO Order 00-22, at 6 and n.5 (C01000003) ("It is well established that in [FINRA] proceedings, as in judicial proceedings, the adjudicator has broad discretion in determining whether a request for a continuance should be granted, based upon the particular facts and circumstances presented.")).

[35] OHO Order 06-01 (CLI050004) (Jan. 6, 2006), at 3, https://www.finra.org/sites/default/files/OHODecision/p016216_0_0_0_0_0_0.pdf ("Respondent's counsel was aware of both the pre-hearing schedule and the hearing dates when she entered her appearance.").

[36] Respondent's Motion to Adjourn Final Hearing at 1.

submission of prehearing materials. Yet that deadline was the result of an extension of time from the original schedule that Reyes, through his new counsel, *agreed to*. Having presumably considered the scope of outstanding work to be done, that was the deadline Reyes asked for.

And Reyes never meaningfully explains in his motion why new counsel was unable to meet the deadline. Enforcement asserts, without substantial contradiction, that the parties exchanged draft pre-hearing exhibits and witness lists on May 31, 2019, before Reyes retained new counsel. Presumably, prior counsel did much of the work associated with pre-hearing submissions before new counsel arrived.[37] Enforcement also asserts that it offered to agree to an even longer extension of pre-hearing deadlines in exchange for Reyes' agreement not to seek an adjournment of the hearing.[38] But Reyes apparently never conferred with Enforcement regarding whether it would agree to further relief from the schedule before filing the present motion. Enforcement suggests that Reyes is engaged in gamesmanship through his delay, filing his motion only after Enforcement made its submissions in order to gain an unfair advantage by reviewing Enforcement's submissions before filing his own.[39]

While I presume Reyes' good faith in seeking relief, I simply cannot find good cause to continue the hearing under these circumstances. His request to adjourn the hearing is denied. In the interest of fairness, however, I will extend Reyes some relief. Reyes has now had an additional week from the most recent deadline for pre-hearing submissions. I agree with Enforcement that it is unfair to permit Reyes to have the one-sided benefit of additional time to respond to its arguments. Consequently, because Reyes did not submit a pre-hearing brief by the date required by my order, he has waived the opportunity to do so. Should Reyes decide to make his remaining pre-hearing submissions, he may file his witness lists, exhibit lists and proposed exhibits by June 28, 2019. Enforcement may file any objections to those submissions by July 5, 2019. Reyes may respond to those objections by July 9, 2019.

Accordingly, Reyes' motion is **GRANTED in part** as explained above. Other than as provided here, the deadlines provided by the Case Management and Scheduling Order remain in effect.

VI. Enforcement's Motion to Permit Counsel for Certain Witnesses to be Present During their Testimony

Enforcement moves for an order permitting counsel who represent three potential witnesses to be present for the testimony of those witnesses. It maintains that counsel should be

[37] OHO Order 13-01 (2009019108901) (Jan. 2, 2013), at 7, https://www.finra.org/sites/default/files/OHODecision/p229434_0_0.pdf, (new counsel "did not need to start over, and six weeks was ample time to prepare for the hearing").

[38] Enforcement's Opposition at 3.

[39] Enforcement's Opposition at 5.

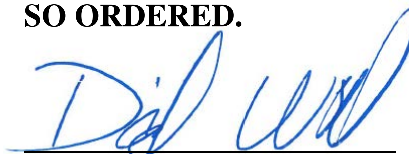
allowed to be present in order to safeguard the attorney-client privilege and to provide legal advice should privilege issues arise.

Pursuant to my authority under FINRA Rule 9235 to regulate the course of the hearing, I have the discretion to permit counsel to accompany a testifying witness.[40] And Enforcement represents that Reyes does not oppose the motion. Accordingly, I find good cause for permitting counsel identified in the motion to be present during the testimony of their clients for the reasons stated in Enforcement's motion. The motion is **GRANTED**.

VII. Order

Respondent's Motion Pursuant to FINRA Rule 9252 is **DENIED.** Enforcement's Motion for An Order Requiring Production of Documents and Information Regarding Respondent's Interactions with Investor RS is **GRANTED**. Respondent's Motion For An Order Requiring the Department of Enforcement To Produce Documents and Information Regarding Interactions With Respondent's Customers is **DENIED**. Respondents' Motion to Adjourn Final Hearing is **GRANTED in part** as provided above. Enforcement's Motion to Permit Counsel for Certain Witnesses to be Present During their Testimony is **GRANTED**.

SO ORDERED.



David Williams
Hearing Officer

Dated: June 25, 2019

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[40] OHO Order 17-17 (2016051925301) (Sept. 5, 2017), at 1, https://www.finra.org/sites/default/files/OHO_Order_17-17_2016051925301.pdf.