

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

WILSON-DAVIS & CO., INC.
(CRD No. 3777),

JAMES C. SNOW, JR.
(CRD No. 2761102),

LYLE WESLEY DAVIS
(CRD No. 62352),

BYRON BERT BARKLEY
(CRD No. 12469),

and

CRAIG STANTON NORTON
(CRD No. 349405),

Respondents.

Disciplinary Proceeding
No. 2016048837401

Hearing Officer-DRS

**ORDER GRANTING ENFORCEMENT'S MOTION
REGARDING SEQUESTRATION OF WITNESSES**

On June 25, 2021, the Department of Enforcement moved for an order (1) preventing, with certain exceptions, any non-party witness from attending the hearing except for that portion during which the witness is testifying, and (2) directing all witnesses (even those permitted to attend) and counsel not to disclose the substance of a witness's testimony to any other witness during the hearing.

Enforcement seeks exceptions from sequestration for all Respondents, the parties' designated experts, Robert Lowry and Steve Ganis, and FINRA Senior Director Bill Park. Enforcement identified Park, a member of Enforcement's investigative staff, as its case agent. Enforcement represents that he reviewed and analyzed the trading and market activity in this case. And, according to Enforcement, the scope of his involvement in, and knowledge about, this

matter makes his presence throughout the hearing essential to Enforcement's presentation. Enforcement represents that all parties consent to the entry of such an order.

FINRA Hearing Officers routinely order witness sequestration in FINRA disciplinary proceedings.¹ The purpose of sequestration is "to ensure a witness's testimony is not influenced by the testimony of other witnesses whom the witness has heard while sitting in the hearing room . . . and that a witness is not influenced by conversations with others in hearing breaks, adjournments, or recesses."² "Testimony that is a witness's own, not influenced by others, promotes fairness to the parties and accuracy in the truth-seeking process."³ Additionally, "[s]equestration discourages fabrication, collusion, tailoring, and giving inaccurate testimony."⁴ Sequestration is especially appropriate when, as here, "there is a likelihood of substantial duplication in questions asked both on direct and cross-examination of witnesses."⁵ Thus, I find sequestration appropriate in this case. I also find that the exclusions from sequestration sought by Enforcement for the Respondents,⁶ expert witnesses,⁷ and the case agent witness⁸ are appropriate, as exemption from sequestration for these types of witnesses is well established in this forum.

Enforcement's motion is therefore **GRANTED**. All witnesses, with the exceptions noted above, are excluded from the hearing except when they testify. All witnesses and counsel are also ordered not to discuss the testimony of any witness with any other witness for the duration of the hearing, except for disclosures that counsel may properly make to the expert witnesses. The party calling a witness shall advise the witness of this prohibition and shall notify the witness when all witnesses have completed their testimony and are not subject to recall.

¹ See, e.g., OHO Order 19-28 (2016049321302) (Sept. 19, 2019), at 1, https://www.finra.org/sites/default/files/2019-10/OHO_Order_19-28_2016049321302.pdf; OHO Order 18-08 (2014039775501) (May 3, 2018), at 2, https://www.finra.org/sites/default/files/OHO_Order_18-08_2014039775501.pdf.

² OHO Order 19-01 (2016050938301) (Jan. 9, 2019), at 1, https://www.finra.org/sites/default/files/2019-10/OHO_Order_19-01_2016050938301.pdf.

³ OHO Order 19-01, at 1.

⁴ OHO Order 19-28, at 1; see also OHO Order 19-01, at 1 ("Sequestration discourages fabrication, collusion, and tailoring of testimony").

⁵ OHO Order 18-08, at 2 (quoting OHO Order 97-12 (CMS970028) (Dec. 15, 1997), at 5, https://www.finra.org/sites/default/files/OHODecision/p007833_0_0.pdf); see also OHO Order 19-28, at 1 (finding sequestration appropriate when "numerous witnesses will testify and may provide overlapping testimony").

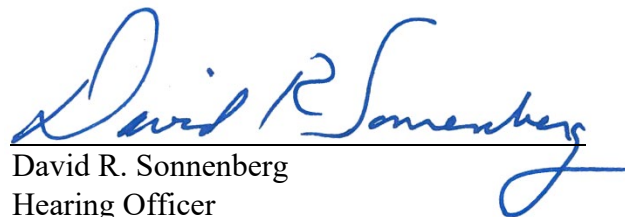
⁶ See, e.g., OHO Order 19-28, at 1 (exempting respondents from sequestration); OHO Order 08-03 (20070077587) (Feb. 29, 2008), at 3, https://www.finra.org/sites/default/files/OHODecision/p038254_0_0.pdf (exempting respondent from sequestration).

⁷ See, e.g., OHO Order 19-28, at 1 (exempting expert witnesses from sequestration); OHO Order 08-03, at 3 (exempting expert witnesses from sequestration).

⁸ See, e.g., OHO Order 19-28, at 1 (exempting investigative agent from sequestration); OHO Order 16-24 (2014043020901) (Aug. 30, 2016), at 2, https://www.finra.org/sites/default/files/OHO_Order16-24_2014043020901.pdf ("[H]earing officers have frequently exempted examiners from sequestration.").

Further, Respondent Wilson-Davis may designate a corporate representative to attend the hearing. Such person will be exempt from sequestration but will be subject to the limitations in this order regarding discussion of witness testimony. Any such designation shall be made by filing a notice of corporate representative designation reflecting the person's name and title by **July 9, 2021**.

SO ORDERED.


David R. Sonnenberg
Hearing Officer

Dated: July 1, 2021

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