

This Order has been published by NASD's Office of Hearing Officers and should be cited as OHO Order 06-43 (EAF0400300001).

**NASD OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Respondents.

Disciplinary Proceeding  
No. EAF0400300001

Hearing Officer-SNB

**ORDER DIRECTING RESPONDENTS TO FILE EXHIBITS AND WITNESS LIST IN COMPLIANCE WITH PRE-HEARING ORDER, AND EXTENDING RELATED DEADLINES**

Respondents filed their proposed exhibits by the September 29, 2006 deadline. However, rather than filing these documents in hard copy as directed in the February 2, 2006 Scheduling Order in this matter (the "Scheduling Order"), Respondents sent electronic disks, some of which could not be opened. Moreover, those exhibits that could be opened were not pre-marked as exhibits, as required. While there was some discussion of electronic exhibits at a recent pre-hearing conference with the parties, the Hearing Officer did not modify the Scheduling Order at that time. Rather, she noted that while the parties would be required to file one set of originals, she would consider accepting an electronic version in lieu of the three copies, as specified in the rule. She indicated that if the parties determined to pursue this, they should file a motion for leave, explaining the proposed logistics. No such motion was filed, and accordingly, the Scheduling Order was not modified. Unfortunately, the pre-hearing conference was not transcribed, and there may have been some confusion on this subject.

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Accordingly, the Hearing Officer hereby extends the deadline for Respondents to file their exhibits until Thursday, October 5, 2006. Such filing shall be made in accordance with the Scheduling Order, which provides:

Exhibits shall be tabbed individually and be pre-marked for identification. Each exhibit must be labeled to identify the party offering the document and the exhibit number. (For example, Enforcement's exhibits will be marked CX-1, CX-2, etc., and Respondent's exhibits will be marked RX-1, RX-2, etc.). Exhibits should be provided to the Office of Hearing Officers double-sided and three-hole punched, if possible.

Alternatively, should Respondents wish to pursue filing electronic disks in lieu of the required three copies, Respondents shall file an original of the proposed exhibits by the above deadline, and file a motion, by 12:00 p.m., Eastern Time, October 4, 2006, setting forth the proposed logistics for presenting exhibits at the hearing, and confirming that electronic copies shall be reformatted so that the documents are marked as exhibits, e.g., RX-1, page 1 of 8, etc.

In addition, by October 5, 2006, Respondents shall file an amended witness list to indicate the occupation of each witness, as required by the Scheduling Order.

Because Respondents' deadline for filing proposed exhibits and a witness list has been extended, the Department of Enforcement's deadline for filing a motion in limine or to exclude proposed witnesses and/or exhibits is extended to October 12, 2006, and Respondents' response to any such motion by Enforcement is extended to October 19, 2006.

**SO ORDERED.**

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Sara Nelson Bloom  
Hearing Officer

Dated: October 3, 2006