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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RESPONDENT 1,

and

RESPONDENT 2,

Respondents.

Disciplinary Proceeding
No. 2008011592201

Hearing Officer – SNB

**ORDER DENYING RESPONDENTS' MOTION FOR LEAVE
TO OFFER EXPERT TESTIMONY**

On May 28, 2010, Respondents 1 and 2 (collectively, "Respondents") filed a motion for leave to call an expert witness. The Department of Enforcement filed an opposition on June 11, 2010.

The March 11, 2010, Scheduling Order governing this proceeding states: "Expert testimony ... will not be permitted except with permission of the Hearing Officer. Motions for leave to offer expert testimony must include the name of the proposed expert, a summary of his or her qualifications that complies with Rule 9242(a)(5), a summary of his or her expected testimony, and an explanation of why expert testimony is necessary." Scheduling Order at 3.

Despite these requirements, Respondents failed to identify their proposed expert. Thus, Respondents are not in a position to comply with the other aspects of the order requiring a summary of the expert witness's expected testimony and demonstration that the expert has relevant expertise.

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Moreover, the Motion does not clearly explain why expert testimony would be necessary. Respondents' Motion seems to suggest that expert testimony might relate to the Panel's determination of whether the alleged omissions and material misstatements involved scienter, for purposes of liability under SEC Rule 10b-5. However, this is a legal conclusion which is not properly the subject of expert testimony. Respondents also suggest that an expertise relating to the purchase and sale of life insurance contracts on the secondary market would be helpful, without identifying the unique or complicated issues this testimony would bear upon, or otherwise explaining why this testimony would be helpful in evaluating the claims or defenses.

For these reasons, the motion by Respondents for leave to call an expert witness is denied.

SO ORDERED.

Sara Nelson Bloom
Hearing Officer

Dated: July 12, 2010