

This order has been published by the NASDR Office of the Hearing Officers and should be cited as OHO Order 98-25 (C10970141).

**NASD REGULATION, INC.
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,	:	
	:	
Complainant,	:	Disciplinary Proceeding
	:	No. C10970141
v.	:	
	:	Hearing Officer - EAE
	:	
	:	
Respondents.	:	
	:	

ORDER REGARDING PRE-HEARING CONFERENCE

On July 31, 1998, the Hearing Officer issued an Order setting a Pre-Hearing Conference ("Conference") for August 17, 1998. Based on the various pleadings and other papers that have been filed by the Parties within the past fifteen (15) days, the Hearing Officer is concerned that the Parties are not making sufficient efforts or progress on narrowing the issues for hearing, including joint stipulations as to various facts and documents. Thus, at the Conference, in addition, to discussing the various motions which have been filed by the Parties, in the absence of agreement as to Joint Stipulations, the Hearing Officer will review in detail the proposed Joint Stipulations submitted by Complainant,¹ any response thereto filed by Respondents, and any proposed stipulations filed by Respondents.

¹ Complainant filed Proposed Joint Stipulations on May 1, 1998, and a second set of Proposed Joint Stipulations on July 21, 1998. On July 6, 1998, Respondent _____ filed a response to Complainant's May 1 Proposed Joint Stipulations, but did not file any proposed stipulations. None of the other Respondents have filed any proposed stipulations notwithstanding the filing deadline of June 30, 1998.

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Accordingly, by the close of business on August 13, 1998, Complainant must file with the Office of Hearing Officers and serve on opposing counsel, all documents, including transcripts of prior testimony, which support each proposed joint stipulation (both those filed on May 1 and July 21) on which the Parties are unable to reach agreement. **With respect to references to prior testimony, Complainant should submit only those portions of the transcript upon which it is relying. The Hearing Officer will not read the entire transcript nor will the Hearing Officer undertake to locate in a transcript the testimony relied upon by Complainant in support of a proposed joint stipulation.** All documents submitted by Complainant should be organized by the proposed joint stipulation to which they refer. It is not necessary, however, to submit the same documents more than once.²

By August 11, 1998, Respondents must file with the Officer of Hearing Officers and serve on Complainant proposed stipulations. Each stipulation must refer to those particular documents, including any prior testimony, which support the stipulation offered by Respondents. By close of business on August 13, 1998, Respondents must file with the Office of Hearing Officers and serve on Complainant, all documents which support their proposed stipulations. Respondents are directed to organize such documents in the same manner as required of Complainant and to submit only those portions of transcripts of prior testimony on which they will rely. In addition, with respect to each of Complainant's proposed joint stipulations to which Respondents cannot or will not agree, Respondents are to file a statement, with supporting documents, for their position.

² Thus, for example, if the same documents or set of documents support proposed joint stipulations one (1) and six (6), they should be submitted as supporting one (1) with a reference that the same documents also support six (6).

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Because of the many issues that need to be addressed at the Conference, including the probability that it will be necessary to review with the Parties a large number of documents, the Hearing Officer has determined that the Conference will be held *in person in Washington, D.C. on August 17, 1998 at 2:00 pm, EDT, and not by telephone.* The Conference will be held at the Office of Hearing Officers, NASD Regulation, Inc., 1800 K Street, NW, Suite 800. Each Party is directed to have a person at the Conference who is fully authorized to act on behalf of the Party he or she purports to represent.

The Hearing Officer will not entertain any motions for relief from this Order and failure to comply may result in the exclusion of evidence at the Hearing.

SO ORDERED

Ellen A. Efros
Hearing Officer

Dated: Washington, DC
 August 4, 1998