

This order has been published by the NASDR Office of the Hearing Officers and should be cited as OHO Order 97-16 (C10970172).

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

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DEPARTMENT OF ENFORCEMENT,	:	
	:	
	:	
Complainant,	:	Disciplinary Proceeding
	:	No. C10970172
v.	:	
	:	Hearing Officer - JN
	:	
	:	
Respondents.	:	
	:	
	:	
	:	

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**ORDER TO SHOW CAUSE WHY RESPONDENTS SHOULD NOT BE HELD IN  
DEFAULT FOR FAILING TO APPEAR AT A PRE-HEARING CONFERENCE**

A. As to the Respondent \_\_\_\_\_

The Respondent firm did not participate (either by representative or by counsel) in the December 19 conference. The order convening that conference was served by first class mail sent to the firm’s address listed in the Association’s Central Registration Depository (the CRD address). During the Initial Pre-Hearing Conference, counsel for the Department represented that the firm had withdrawn as a broker dealer and ceased to exist; \_\_\_\_\_, President of the firm, confirmed this status, stating, “[t]he firm is no longer in existence” (Tr. 3-4, 18). During the second pre-hearing conference counsel for the Department again stated that the firm was out of business.

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B. As to Respondent \_\_\_\_\_

An Initial Pre-Hearing Conference in this proceeding was held on November 26, 1997. Respondent \_\_\_\_\_ participated in that conference, but did so under the assumption that his court-appointed counsel in another matter (\_\_\_\_\_, Esq.) would represent him in this disciplinary proceeding. Counsel for the Department thereafter spoke with \_\_\_\_\_ and ascertained that Respondent's assumption was incorrect ("Request for Second Pre-Hearing Conference", pp. 2-3).

In light of this fact, the Hearing Officer decided to give \_\_\_\_\_ another opportunity to participate, and issued an order directing that a second pre-hearing conference be convened on December 19, 1997. That order was served by first class mail, sent to \_\_\_\_\_ at his CRD address. When the conference was convened, counsel for the Department was on the telephone; Respondent \_\_\_\_\_ did not participate (either pro se or by counsel). Counsel described her efforts to contact \_\_\_\_\_—two telephone messages, and a Federal Express letter concerning the scheduled second pre-hearing conference. She further explained that the telephone messages were not returned, and that Federal Express records pertaining to the mailing showed receipt.

C. As to Respondent \_\_\_\_\_

Respondent \_\_\_\_\_ did not participate (either pro se or by counsel) in the December 19 conference. Counsel for the Department explained during that conference that she had made two telephone calls concerning this scheduled event. Her call of December 15 was not returned. On December 19, she left a message with a person who confirmed that the telephone number was that of \_\_\_\_\_ current residence. According to the complaint, \_\_\_\_\_, though associated

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with the \_\_\_\_\_ firm, had never been registered with the Association. The Office of Hearing Officers sent two copies of the order convening the December 19 conference to respondent \_\_\_\_\_ by first class mail. One went to the firm's CRD address; the second went to a Brooklyn address set out in the Department's Notice of Complaint.

WHEREFORE, IT IS HEREBY ORDERED, that Respondents \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ show cause why they should not be held in default for failing to appear at the December 19, 1997 pre-hearing conference. Respondents shall respond to this Order to Show Cause by December 29, 1997.

**SO ORDERED.**

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Jerome Nelson  
Hearing Officer

Dated: Washington, DC  
December 19, 1997