

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

GURPREET CHANDHOKE
(CRD No. 4999369),

and

STEPHEN SHEA
(CRD No. 3274649),

Respondents.

Disciplinary Proceeding
No. 2015047244701

Hearing Officer—DW

ORDER DENYING RESPONDENT SHEA'S MOTION TO SEVER

I. Background

FINRA's Department of Enforcement brought this disciplinary proceeding against Respondents Gurpreet Chandhoke and Stephen Shea. The five-cause Complaint charges the Respondents with a number of violations, including: (1) participating in unapproved outside business activities (cause one); (2) failing to disclose outside accounts (cause two); (3) engaging in private securities transactions (cause three); (4) structuring cash deposits (cause four); and (5) making false statements in connection with these violations (cause five). Both Respondents deny the charges.

The first three causes allege violations by both Chandhoke and Shea. The latter two causes allege violations by Chandhoke alone. Shea seeks to sever the claims against him on the ground that it would be unfair and unduly prejudicial to require him to litigate the claims against him in the course of an extended, two-week hearing that also includes charges against Chandhoke alone.

Enforcement opposes the motion. It argues Shea failed to establish that severance would conserve the parties' time and resources, or that denial of the severance request would result in any prejudice.

II. Discussion

Rule 9214(d) provides the factors bearing on the decision to grant a request for severance: “(1) whether the same or similar evidence reasonably would be expected to be offered at each of the possible hearings; (2) whether the severance would conserve the time and resources of the Parties; and (3) whether any unfair prejudice would be suffered by one or more Parties if the severance is (not) ordered.”

Each factor counsels against severance. First, the same evidence will necessarily be offered at both hearings, as the counts involving unapproved outside business activities, undisclosed outside accounts, and private securities transactions implicate both Chandhoke and Shea. While Shea argues the particulars of his and Chandhoke’s alleged violations are distinct, he acknowledges that the evidence as to both would be “similar.”¹ As Enforcement notes, “[t]he allegations against Chandhoke and Shea share a common legal and factual basis, and as a result, the same or similar evidence will be offered to prove those allegations.”²

Second, there is little reason to believe that severance would conserve time and resources. Although a hearing on the three counts relevant to Shea would presumably be shorter than a hearing on all counts, because those same counts would be at issue in each proceeding there would be substantial overlap in the relevant evidence (including testimony from Chandhoke and Shea) presented at each hearing. The need for his testimony at each hearing diminishes any potential conservation of time and resources for Shea. And indeed, for Chandhoke and Enforcement, severance would substantially increase the burdens of litigation.³ Chandhoke would be required to defend against all claims against him while also testifying at Shea’s hearing. Enforcement would be required to prove two cases, with substantially similar proof of the majority of its claims required at each hearing.⁴ Such overlap weighs against severance.⁵

Finally, Shea has not demonstrated he will suffer unfair prejudice if his motion is not granted, as there is no reason to conclude the Hearing Panel cannot adequately consider and

¹ Respondent Shea’s Motion to Sever and For Separate Hearings (“Mot.”), at 3.

² Enforcement’s Opposition to Shea’s Motion to Sever and For Separate Hearings (“Opp.”), at 5.

³ See *Donner Corp. Int’l*, Exchange Act Release No. 55313, 2007 SEC LEXIS 334, at *70 (Feb. 20, 2007) (where the same or similar evidence would be presented at each of the possible hearings, severance would not have conserved the time or resources of the parties); see OHO Order 02-10 (CAF010021), at 2 (May 15, 2002), <http://www.finra.org/sites/default/files/OHODecision/p007781.pdf> (“While severance might conserve Respondent’s own resources, it would necessitate additional inconvenience and costs for other parties, the Hearing Panel, and witnesses . . .”).

⁴ See *Dep’t of Enforcement v. Mullins*, Nos. 20070094345 and 20070111775, 2011 FINRA Discip. LEXIS 61, at *54 (NAC Feb. 24, 2011), *aff’d in relevant part, sanctions modified*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464 (Feb. 10, 2012) (severance properly denied where “claims against both respondents shared a number of underlying facts, witnesses, and exhibits”).

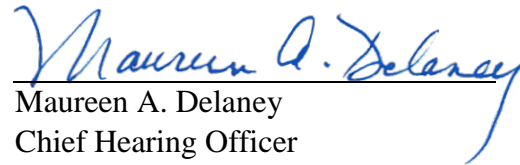
⁵ OHO Order 02-10, at 2 (“[W]here there are common questions of law and fact, severance risks inconsistent decisions if different Hearing Panels are required for the separate proceedings.”).

analyze the evidence relevant to each charge against each Respondent.⁶ The National Adjudicatory Council has explained, “respondents in a multi-respondent case do not each have a right to a wholly independent trial in a proceeding that revolves entirely around him. Where common issues of fact and law are present, and where the decision maker is not a lay jury who might be prone to impute the wrongdoing of one respondent to another, then it is not prejudicial to hear the claims together in a single hearing.”⁷

III. Conclusion

For the foregoing reasons, Respondent Shea’s Motion to Sever is **DENIED**.

SO ORDERED.


Maureen A. Delaney
Chief Hearing Officer

Dated: March 6, 2020

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⁶ *Donner*, 2007 SEC LEXIS 334, at *70 (finding that FINRA adjudged each respondent based solely upon the record evidence pertaining to that applicant); OHO Order 00-20 (CMS960174), at 3 (July 31, 2000), <http://www.finra.org/sites/default/files/OHODecision/p007921.pdf> (“The members of the Hearing Panel who will adjudicate this proceeding, by virtue of their training and sophistication, have a greater understanding of legal matters than the typical lay jury and are undoubtedly capable of distinguishing between the allegations against [Respondent] and those against other Respondents.”).

⁷ *Dep’t of Enforcement v. Newport Coast Securities*, No. 2012030564701, 2018 FINRA Discip. LEXIS 14, at *225–26 (NAC May 23, 2018), *appeal docketed*, SEC Admin. Proc. No. 3-18555 (June 22, 2018).