

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

DEPARTMENT OF ENFORCEMENT,	:	
	:	
Complainant,	:	
	:	
v.	:	
	:	
	:	Disciplinary Proceeding
	:	No. C10970142
	:	
	:	Hearing Officer - DMF
	:	
Respondents.	:	

**ORDER DENYING REQUEST FOR EXTENSION
OF TIME IN WHICH TO ANSWER**

According to the record in this proceeding, the First Notice of Complaint was served on all Respondents on August 11, 1997, by certified first class mail. Accordingly, pursuant to Rules 9215 and 9138, the Respondents' Answers were due to be filed no later than September 8, 1997.

On September 8, the Hearing Officer received, by facsimile, a letter from _____, as counsel for Respondent _____, requesting a 30-day extension of time to file Respondent _____ Answer. In his letter, _____ said he had "just recently been retained to represent Respondent _____ in [this disciplinary proceeding, and] Respondent _____ will be out of town for the next three weeks for his honeymoon. Therefore, I will be unable to respond to the papers in a timely fashion."

The letter from _____ did not comply with Rule 9136 regarding the form of papers to be filed in this proceeding and did not include a certificate of service, as required by Rule 9135(c), indicating that it was served on the other parties. Nevertheless, on September 9, 1997,

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the Hearing Officer issued an order stating that, under the circumstances, the Hearing Officer would treat the letter as a motion for a 30-day extension of time to file Respondent _____ Answer. Pursuant to Rule 9146(d), the Hearing Officer shortened the time for other parties to oppose or otherwise respond to this motion to September 15, 1997. In addition, pursuant to Rule 9215(f), the Hearing Officer ordered the Department of Enforcement to send a Second Notice of Complaint to Respondent _____.

On September 12, 1997, Enforcement filed a Second Notice of the Complaint, together with a Certificate of Service indicating that it had served the Second Notice on Respondent _____ by certified first class mail on September 10, and had sent a copy of the Second Notice to _____. On September 15, 1997, Enforcement filed a Response to Respondent _____ Request for an Extension of Time to Answer the Complaint, in which Enforcement opposed the request. Enforcement attached to its Response certain correspondence and transcripts indicating that _____ represented Respondent _____ in the investigation that led to this proceeding. Enforcement described one attachment as “a detailed Wells submission [which] demonstrates _____ is intimately familiar with the facts and issues of this case and is not ... a newly hired lawyer who knows nothing about this case.” Enforcement also argued that _____ letter fails to “proffer any reasons in good faith that precluded the submission of an answer during the four week period prior to the commencement of _____ honeymoon.”

Rule 9222(a) generally authorizes extensions of the time limits imposed by the Code of Procedure “for good cause shown.” Similarly, Rule 9215 specifically authorizes the Hearing Officer to extend the time for filing an Answer “for good cause.” Expedient resolution of disciplinary proceedings serves the interests of the profession and the investing public. In most cases, the time limits in the Code will afford the parties adequate time to complete the action

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required. Accordingly, the Hearing Officer will strictly enforce the “good cause” requirement. In particular, ordinarily the Hearing Officer will not grant last minute requests for extensions absent a strong showing of exigent, unforeseen circumstances.

_____ last minute request does not satisfy this standard. The First Notice of Complaint was served on August 11, with a copy sent directly to _____. More than three weeks elapsed before _____ sent his letter requesting an extension. Even if _____ was “just recently” retained to represent Respondent _____ in this proceeding, the attachments to Enforcement’s Response show that _____ represented him during the investigation. _____ letter does not suggest that Respondent _____ honeymoon absence was exigent or unforeseen. Under these circumstances, Respondent _____ has failed to establish “good cause” for an extension of time.

Therefore, it is ORDERED that:

1. Respondent _____ request for a 30-day extension of time to file his Answer is denied.
2. In accordance with Rule 9215(f) and the Second Notice of Complaint, Respondent _____ Answer must be filed on or before September 29, 1997.

David M. FitzGerald
Hearing Officer

Dated: Washington, DC
September 15, 1997