

This Order has been published by NASD's Office of Hearing Officers and should be cited as OHO Order 06-11 (EAF0400300001).

the Hearing Officer finds that New York's Civil Practice Law and Rules (CPLR) Section 2302(a) does not apply to NASD Disciplinary Hearings. See, OHO Order No. 05-39 [CAF40058]. Moreover, permitting the use of such subpoenas would result in uneven treatment of respondents located outside New York. Id.

In NASD disciplinary proceedings, Respondents may avail themselves of Rule 9252, to request that NASD invoke Rule 8210 to "compel the production of documents or testimony at the hearing" under circumstances set forth in that rule. The Hearing Officer is unwilling to allow Respondents to circumvent NASD's procedures through the use of subpoenas. Rule 9235 authorizes the Hearing Officer to regulate the course of this proceeding and resolve procedural, evidentiary, and discovery issues. Pursuant to the Hearing Officer's authority under Rule 9235, the parties are prohibited from issuing subpoenas.

SO ORDERED.

Sara Nelson Bloom
Hearing Officer

Dated: January 19, 2006