Financial Industry Regulatory Authority

FINRA Disciplinary Proceedings

Answers to Frequently Asked Questions

Answers to Frequently Asked Questions for Respondents in FINRA Disciplinary Proceedings

FINRA is committed to ensuring that all respondents are treated fairly in the disciplinary process. Below, you will find brief answers to a number of questions frequently asked by respondents. We hope these answers will be helpful in orienting you to the disciplinary process.

FINRA's disciplinary proceedings are governed by the FINRA Code of Procedure (the Code). You should consult the Code to obtain a complete picture of your rights and responsibilities in the disciplinary process. In addition, FINRA's Office of Hearing Officers has prepared a Guide to Disciplinary Hearing Procedures (the Guide), which gives a description of the disciplinary process. FINRA's rules, including the Code, are available at *www.finra.org/rules*. The Guide is available at *www.finra.org/OHO*. You may also request that the Office of Hearing Officers send you copies of the Code and Guide if you do not have access to FINRA's website.

Question: I have received a Complaint in which the Department of Enforcement or Department of Market Regulation charges me with violating FINRA conduct rules or securities laws. How can I respond?

Answer: Send an Answer to the Complaint to FINRA's Office of Hearing Officers, 1735 K Street, N.W., Washington, DC 20006, and a copy to the Department attorney whose name, address, and telephone number are listed in the Notice of Complaint.

In your Answer, you should respond to all of the allegations in the numbered paragraphs of the Complaint. Your Answer may admit or deny each allegation; you can admit some parts of a paragraph and deny others. If you do not have enough information to be able either to admit or deny an allegation, say so, and it will be treated as a denial. You (or your lawyer, if you have one) must sign the Answer, and the Answer must include your (or your attorney's) address and telephone number, including an email address if you have one. For more details, read the Code, including Rules 9133 – 9138 and 9215.

Question: How long do I have to file an Answer to the Complaint?

Answer: The deadline for responding to the Complaint is 25 days after it is served on you. This date is stated in the Notice of Complaint. You can email your Answer as a .pdf file to the Office of Hearing Officers at *OHOCaseFilings@finra.org* or fax your Answer to the Office of Hearing Officers at (202) 303-3998, if necessary, in order to meet the deadline. If you file by email or fax, you should also email or fax your Answer to the Department attorney identified in the Complaint. If you have questions about the procedures or deadline for filing, call the Office of Hearing Officers at (202) 728-8008 and ask to speak to the Case Administrator assigned to your case. For more details, read the Code, including Rule 9215.

Question: What happens if I do not file an Answer?

Answer: If you do not file an Answer by the deadline, the Department will send you a Second Notice of Complaint. If you do not file an Answer by the deadline in the Second Notice, the Hearing Officer may issue a default decision against you. In a default decision, the Hearing Officer may deem the allegations made by the Department admitted by you and may make findings that you engaged in the alleged misconduct, and violated FINRA conduct rules or federal securities laws or regulations. As a result, you could be fined, suspended from working with a member firm for a specified time, or barred from working with a member firm permanently. For more details, read the Code, including Rules 9215(f) and 9269.

Question: How do I get a hearing on the charges in the Complaint?

Answer: In your Answer just say, "I request a hearing." For more details, read the Code, including Rule 9221.

Question: If I ask for a hearing, who will hear my case?

Answer: Your case will be heard by a Hearing Panel that will include a professional, independent Hearing Officer employed by FINRA, and two representatives of the securities industry who are associated with, or retired from association with, a FINRA member firm. For more details, read the Code, including Rules 9231 – 9234.

Question: What happens if I file an Answer, but do not ask for a hearing?

Answer: If you file an Answer, a Hearing Panel will decide your case, even if you do not ask for a hearing. The Hearing Panel will give both the Department and you an opportunity to submit written evidence and arguments. The Hearing Panel can decide the case based on the written submissions, or it can order an in-person hearing, if it thinks that would be helpful. For more information, read the Code, including Rule 9221.

Question: Who is the Hearing Officer and what is his or her role in the proceeding?

Answer: Hearing Officers are attorneys employed by FINRA and assigned to the Office of Hearing Officers. The only function of that Office is to serve as an adjudicator; it is entirely independent of the Department of Enforcement and the Department of Market Regulation. When a Complaint is filed, the Chief Hearing Officer or Deputy Chief Hearing Officer assigns a Hearing Officer to the case. The Hearing Officer is responsible for overseeing the proceeding to ensure that it is conducted in a fair and efficient manner, much as a judge oversees cases in a court. The Hearing Officer has authority to make all rulings about the schedule, the procedures to be followed, and what evidence will be admitted. The Hearing Officer also serves as Chair of the Hearing Panel. For more information, read the Code, including Rule 9235.

Question: Do I have a right to be represented by a lawyer? Can I be represented by someone who is not a lawyer, but is familiar with FINRA procedures?

Answer: You have the right to represent yourself, or, if you prefer, you can be represented by a lawyer. An individual can only be represented by a lawyer, but a corporation, trust, or association may be represented by one of its officers, and a partnership may be represented by one of its partners. For more details, read the Code, including Rule 9141.

Question: If I want a hearing, is the process complicated?

Answer: No. The most important step is the "pre-hearing conference," which the Hearing Officer will schedule shortly after you file your Answer. The conference is usually held by telephone, and both you (or your lawyer, if you have one) and the Department must participate in the conference. If the Hearing Officer schedules the conference for an inconvenient date or time, call the Office of Hearing Officers at (202) 728-8008 and ask the Case Administrator assigned to your case that it be rescheduled. If you fail to appear by telephone for a pre-hearing conference, you may be held in default.

During the conference, the Hearing Officer will ask all parties to discuss the case, and will try to answer any questions you may have. The Hearing Officer will also ask the parties about convenient dates and locations for the hearing. Based on the specific circumstances of your case, as discussed during the conference, the Hearing Officer will establish a hearing date and a pre-hearing schedule. At a minimum, if you want witnesses to testify at the hearing or if you want to offer documents (referred to as "exhibits"), you will be required to provide a list of your witnesses and exhibits, and copies of the exhibits, to the Hearing Officer and the Department before the hearing. You will also receive a list of all of the Department's witnesses and exhibits, and copies of the exhibits, before the hearing. Of course, if you ask for a hearing, you must also appear for the hearing at the scheduled date and time. If you fail to appear, you may be held in default. For more details, read the Code, including Rules 9241 and 9242.

Question: What additional rights do I have?

Answer: You have a number of rights under the Code. Most importantly, the Department must make available to you for inspection and copying (at your expense) certain documents prepared or obtained by FINRA staff in connection with the investigation that led to the proceedings against you. This includes FINRA requests for information sent to persons who are not employed by FINRA; any documents provided in response to those requests; any transcripts of testimony taken during the investigation, as well as exhibits to the transcripts; and any other documents obtained from persons not employed by FINRA. There are several categories of documents, however, that the Department does not have to produce. To be aware of all your rights under the Code, and the limitations on those rights, you should read the Code carefully, including Rules 9251 – 9253.

Question: What happens at the hearing?

Answer: FINRA hearings are less formal than court proceedings, but the hearing process is similar. Usually, the parties are allowed to make "opening statements" to the Panel. Then the Department offers its evidence, which may include the testimony of witnesses or documentary exhibits. You will have an opportunity to question every witness offered by the Department and you can object to any exhibits, and the members of the Panel can also ask questions. When the Department has finished presenting its evidence, you may testify personally, call your own witnesses to testify, and offer your own documentary exhibits. The Department may question your witnesses or object to your exhibits, and the Panel may also ask questions. When the parties have finished offering evidence, they will usually be allowed to offer "final arguments" to the Panel. For more information, read the Code, including Rules 9261 – 9267.

Question: What happens after the hearing?

Answer: After the hearing, the Panel discusses the evidence and reaches a decision. Each member of the Panel has one vote, and if there is a disagreement, a majority vote determines the outcome. The Hearing Officer prepares a written decision setting forth the Panel's decision and explaining the Panel's reasons, which is sent to all the parties. If any member of the Panel disagrees with the decision, he or she may prepare a written dissent, which is also sent to all parties. Any party may appeal the Hearing Panel's decision to FINRA's National Adjudicatory Council within 25 days after service of the decision, or the National Adjudicatory Council can call the decision for review. For more information, read the Code, including Rules 9268, 9311 and 9312.

Question: Where can I get additional information about the disciplinary process?

Answer: As explained above, you should read the Code and the Guide carefully for detailed answers to all your questions. You may also call the Office of Hearing Officers at (202) 728-8008 and ask to speak to the Case Administrator assigned to your case. The Case Administrator cannot give you legal advice, but can tell you the status of your case.

Investor protection. Market integrity.

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