

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

WILSON-DAVIS & CO., INC.
(CRD No. 3777),

JAMES C. SNOW, JR.
(CRD No. 2761102),

LYLE WESLEY DAVIS
(CRD No. 62352),

BYRON BERT BARKLEY
(CRD No. 12469),

and

CRAIG STANTON NORTON
(CRD No. 349405),

Respondents.

Disciplinary Proceeding
No. 2016048837401

Hearing Officer–DRS

ORDER CONVERTING HEARING TO VIDEOCONFERENCE IF NECESSARY

Today, the Hearing Officer presiding over this case granted Respondents’ motion to continue the hearing in order to increase the likelihood that the hearing could be held in person. As a result, the hearing in this matter is now scheduled for July 19–23, 26–30, 2021, in the Washington, D.C. metropolitan area.¹ In granting the motion, the Hearing Officer ruled that “the interests of justice would be best served by granting no further continuances for the purpose of increasing the likelihood that the hearing can be held in person.”²

Because of the COVID-19 pandemic, the feasibility and safety of a traditional in-person hearing, with participants gathered at a single location, is uncertain. The outbreak of COVID-19

¹ Order Granting Respondents’ Motion to Continue Hearing (Mar. 15, 2021) (“Mar. 15 Order”).

² Mar. 15 Order 4.

has disrupted critical adjudicatory functions nationwide due to the serious public health risks it poses in connection with conducting in-person hearings. In order to comply with the guidance of public health authorities and to ensure the safety and wellbeing of parties, counsel, adjudicators, witnesses, court reporters, and FINRA personnel, FINRA administratively postponed in-person disciplinary hearings for more than five months—from March 16 through October 2, 2020. While FINRA’s ultimate goal is to resume in-person hearings, doing so in a manner that is compliant with the current guidance of public health authorities is a logistically complex and challenging process.

On August 31, 2020, FINRA filed a proposed temporary rule change for immediate effectiveness. The temporary amendments in SR-FINRA-2020-027 to FINRA Rules 9261 and 9830, among others, are now operative and are in effect through April 30, 2021, pending any future extensions. These temporary amendments allow hearings in connection with disciplinary actions and permanent cease and desist orders, if warranted by the current COVID-19-related public health risks posed by an in-person hearing, to be conducted by videoconference instead of gathering participants in one physical location. The temporary amendment to Rule 9261 grants FINRA’s Chief Hearing Officer and Deputy Chief Hearing Officer authority to determine that a hearing will proceed, in whole or in part, by videoconference.

As set forth in SR-FINRA-2020-027, FINRA’s protocol for conducting hearings by videoconference ensures that the hearings maintain a fair process for the parties. Videoconference hearings afford the parties and adjudicators simultaneous visual and oral communication without the risks of individuals being physically close to one another. The Office of Hearing Officers (“OHO”) uses high-quality, secure videoconferencing technology with features that allow the parties to reasonably approximate those tasks that are typically performed at an in-person hearing, such as sharing documents, marking documents, and utilizing breakout rooms. OHO will provide training for participants on how to use the videoconferencing platform and detailed guidance on the procedures that will govern the hearing. OHO will also provide assistance to participants to ensure that they are adequately prepared to use the videoconferencing software by conducting a hearing rehearsal for the parties in advance of the hearing date. Furthermore, the OHO Case Administrator assigned to this case will participate in the videoconference hearing to ensure that participants have adequate support during the hearing.

OHO has published information on the security features of its videoconference hearing process at <https://www.finra.org/rules-guidance/key-topics/covid-19/o-ho-hearings>. OHO also provides an online Virtual Hearing Guide for Parties.

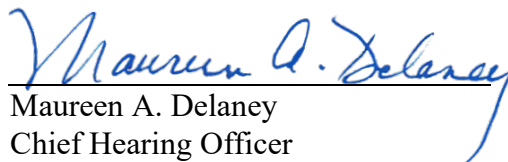
After careful consideration of the parties’ filings regarding whether the hearing in this case should proceed by videoconference; in light of the Hearing Officer’s finding that “the interests of justice would be best served by granting no further continuances for the purpose of increasing the likelihood that the hearing can be held in person”; and given the totality of the circumstances, I **ORDER** as follows:

If, after considering the guidance of FINRA’s health and safety consultant in conjunction with COVID-19 data and guidance issued by public health authorities, I determine that the

hearing can proceed in person, it will be held in a location in the Washington, D.C. metropolitan area as currently scheduled. But if, six weeks prior to the hearing date, the feasibility and safety of a traditional in-person hearing is uncertain, the hearing will proceed by videoconference.³

Questions regarding this order may be directed to the Case Administrator, Kate Shaffer, at 202-728-8113 or kate.shaffer@finra.org.

SO ORDERED.


Maureen A. Delaney
Chief Hearing Officer

Dated: March 15, 2021

Copies to:

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³ My determination will also be based on (i) state and county virus trends and hospitalization rates at or around the hearing location and the locations from where hearing participants will travel; (ii) national, state, and local orders addressing COVID-19; (iii) risks posed by requiring hearing participants to travel by air, use public transportation, and stay in hotels; and (iv) the increased risk of exposure based on the length of the hearing or number of hearing participants.