

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BRIAN COLIN DOHERTY  
(CRD No. 2647950),

Respondent.

Disciplinary Proceeding  
No. 2015047005801

Hearing Officer—CC

**ORDER GRANTING MOTION FOR LEAVE TO OFFER TELEPHONE OR  
VIDEOCONFERENCE TESTIMONY**

On March 1, 2019, Enforcement filed an uncontested motion requesting permission for the parties to present testimony from two witnesses by telephone or video conference at the hearing commencing on March 11, 2019, in FINRA's New York, New York office. The parties ask that Enforcement's witness, William Shields ("Shields"), Chief Compliance Officer of BGC for the Americas, and Respondent's witness, Lou Scotto ("Scotto"), Chief Executive Officer of BGC Financial, L.P., testify by telephone or videoconference.

Enforcement represents that both witnesses must attend an important industry conference in Florida during the week of the hearing. As such, requiring these two witnesses to appear in person at the hearing would be costly and inconvenient. In addition, Enforcement represents that the witnesses' testimony will be limited in scope and duration. Enforcement also indicates that the parties will be able to effectively question the witnesses by telephone or videoconference and that nothing will interfere with the Hearing Panel's ability to evaluate their testimony.

FINRA's use of telephone testimony in disciplinary proceedings is widely accepted by the Securities and Exchange Commission.<sup>1</sup> Accordingly, for good cause shown, Enforcement's unopposed motion to allow the parties to present Shields's and Scotto's testimony by telephone or videoconference is granted subject to the following conditions:

---

<sup>1</sup> See *Gerald E. Donnelly*, 52 S.E.C. 600, 603 n.16 (1996) (upholding Hearing Panel determination to hear and credit telephone testimony in FINRA disciplinary proceeding); *Ronald W. Gibbs*, 52 S.E.C. 358, 364 (1995) ("[T]elephonic testimony frequently is used in NASD disciplinary proceedings, and neither the Commission nor the courts have found the use of such testimony to be unfair.").

1. On or before **Wednesday, March 6, 2019**, Doherty shall identify for Enforcement the proposed exhibits he wants available to Shields and Scotto during their testimony.

2. Enforcement shall file with the Office of Hearing Officers Shields's and Scotto's sworn affidavits or signed declarations stating that their telephone testimony will be truthful. In the alternative, Enforcement may bring the affidavits or declarations to the hearing and provide them to the Hearing Officer.

3. Enforcement shall ensure that Shields and Scotto have, at the time each is called to testify, copies of all exhibits that relate to his testimony.

4. Enforcement shall ensure that Shields and Scotto are available by telephone or videoconference during blocks of time when it is reasonable to expect that each will be called to testify.

**SO ORDERED.**



Carla Carloni  
Hearing Officer

Dated: March 4, 2019

Copies to: Brian Colin Doherty, Esq. (via email and first-class mail)  
David Monachino, Esq. (via email and first-class mail)  
Daniel Hibshoosh, Esq. (via email)  
Eric Hansen, Esq. (via email)  
Richard Chin, Esq. (via email)  
Lara Thyagarajan, Esq. (via email)