

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

(CRD No. \_\_\_\_\_),

Respondent.

Expedited Proceeding  
No.

STAR No.

Hearing Officer—

**NOTICE OF HEARING AND  
CASE MANAGEMENT AND SCHEDULING ORDER**

On \_\_\_\_\_, in response to a notice sent by FINRA staff pursuant to Rule 9554, Respondent \_\_\_\_\_ (“Respondent”) filed a timely request for a hearing.<sup>1</sup> Pursuant to Rule 9559, the hearing will be held by telephone conference call on \_\_\_\_\_, **at (Eastern Time)**. The Office of Hearing Officers will issue a separate notice with the telephone number and instructions for joining the conference call.

For his defense, Respondent has asserted a bona fide inability to pay an arbitration award. Respondent has the burden to prove this defense and must demonstrate that from the time of the award to the present, he has been financially unable to make any meaningful payment toward satisfaction of the award from available assets or income. In connection with this defense, as directed below, Respondent is required to complete and provide to the Department of Enforcement a Statement of Financial Condition form,<sup>2</sup> as well as all requested supporting documents and any other documents that he claims support the defense. **Respondent’s failure to fully complete this form, to provide all requested supporting documents, to respond to Enforcement’s requests for additional information or documents, or to provide any other documents that he claims support the defense may result in a finding that Respondent has abandoned his defense, and could result in a summary suspension of his FINRA license for failure to comply with the award.**

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<sup>1</sup> A copy of Respondent’s hearing request and the service list for this case are attached.

<sup>2</sup> A blank Statement of Financial Condition form is attached.

**I. Pre-Hearing Schedule**

The following pre-hearing schedule is adopted for this matter:

	<p>If Enforcement has not done so, it shall provide to Respondent, by email, facsimile, or overnight courier, all documents that were considered in issuing the notice, unless a document meets the criteria of Rules 9251(b)(1)(A), (B) or (C).</p>
	<p>Pursuant to Rule 9141(b), any additional attorney representing Enforcement shall file with the Office of Hearing Officers and serve on Respondent a notice of appearance.</p>
	<p>Respondent shall serve Enforcement with a completed Statement of Financial Condition along with all requested supporting documents and any additional documents defense.</p> <p>All supporting documentation shall be placed into three-ring binders and organized by tabs to separate different categories of information (e.g., bank statements, credit card statements, loans, etc.). All account statements shall be organized by account number and arranged in chronological order.</p>
	<p>Deadline for Enforcement to request supplemental documents regarding Respondent’s financial condition.</p>
	<p>The parties shall file with the Office of Hearing Officers and exchange, by email, facsimile, or overnight courier, their pre-hearing submissions, which shall include a list of all witnesses they expect to call at the hearing, a list of all exhibits they intend to offer, copies of all proposed exhibits, and any stipulations of facts.</p> <p>The party presenting a witness shall ensure that the witness has, at the time of testifying, copies of all exhibits that relate to the witness’s direct testimony, as well as any exhibits that the opposing party may designate for use on cross-examination. Additionally, the party presenting a witness shall have the witness available during a block of time when it is reasonable to expect that the witness will be called to testify at the hearing, so that the hearing is not unduly disrupted if the testimony of prior witnesses is longer or shorter than expected.</p>

	<p>Pursuant to Rules 9559(i) and 9262, for any witness testifying at the hearing who is subject to FINRA jurisdiction or is a FINRA employee, the party presenting the witness shall file with the Office of Hearing Officers a notarized affirmation or affidavit from the witness stating that his or her testimony at the hearing will be truthful.</p> <p>For any other witness, the party presenting the witness shall file with the Office of Hearing Officers a written declaration that the testimony given at the hearing will be truthful.<sup>3</sup></p>
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**II. Case Management**

**A. Filing Requirements and Format of Pleadings**

All papers shall be served and filed by email, unless a party lacks the capability to send and receive email or the filing exceeds 80 pages in length, and except proposed exhibits, which shall be submitted in hard copy as specified below. All papers filed by email shall be sent in Portable Document Format (PDF) to OHOCASEFILINGS@FINRA.ORG.

A document filed by email that is dated and has a scanned image of a handwritten signature shall be deemed to have been signed by the party, the party’s attorney, or the party’s authorized representative for the purposes of this proceeding. Unless otherwise ordered by the Hearing Officer, the filing party shall maintain all original signed documents filed by email until final disposition of the case and the expiration of all appeal opportunities.

No party shall file motions or other pleadings in letter format. No party shall send copies of its correspondence with another party to the Office of Hearing Officers.

**B. Pre-Hearing Submissions**

Exhibits shall be tabbed individually, pre-marked for identification, and submitted in three-ring binders. Each exhibit must be labeled to identify the party offering the document and the exhibit number. (For example, Enforcement’s exhibits will be marked CX-1, CX-2, etc., and Respondent’s exhibits will be marked RX-1, RX-2, etc. Joint exhibits will be marked JX-1, JX-2, etc.). In addition, each page of each exhibit must be marked with the exhibit number and page number. Exhibits should be organized so that each exhibit reflects one category of financial information (e.g., credit card statements). If there are statements for more than one credit card, they should be labeled separately. All financial documents must be organized in chronological order, by account number.

Complainant’s exhibits shall include appropriate evidence showing that the notice sent by FINRA staff pursuant to Rule 9554 was properly served on Respondent. The parties shall use

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<sup>3</sup> The Office of Hearing Officers will separately provide a form declaration and a form affidavit or affirmation to be notarized.

their best efforts to avoid submitting duplicate exhibits, and must file an original and one of each submission. Counsel for Enforcement is responsible for initiating a discussion about joint exhibits and stipulations of facts.

Finally, the parties should attempt to provide a completely legible copy of each exhibit. If a party is unable to do so, the party shall label the document “best copy available.”

**Respondent is notified that providing the Statement of Financial Condition and any other documents to Enforcement does not serve as a substitute for offering documents as exhibits at the hearing. Failing to offer exhibits into evidence at the hearing could result in a finding that Respondent has failed to establish his defense.**

### **C. Personal Confidential Information**

Where practical, the parties shall remove (redact) the following Personal Confidential Information (“PCI”) from exhibits submitted to the Office of Hearing Officers, unless the information is necessary for the determination of the issues in this expedited proceeding:

- Social Security numbers;
- taxpayer identification numbers (last four digits allowed);
- passport numbers (last four digits allowed);
- driver’s license numbers (last four digits allowed);
- state-issued identification numbers (last four digits allowed); and
- financial account numbers (including checking and savings account numbers, credit card numbers, debit card numbers, or any other numbers or information that can be used to access the person’s financial resources) (last four digits allowed).

By producing a non-redacted exhibit(s), the submitting party represents that it is impractical to remove the foregoing PCI and acknowledges that the exhibit(s), including PCI, may be further disseminated to the other parties in the proceeding.

Also, the parties shall not include the foregoing PCI or any of the following Personal Sensitive Information in motions, briefs, memoranda, pleadings, and other written submissions prepared by the parties, and shall not refer to this information in testimony, arguments, or statements on the record:

- home address (other than city and state);
- personal telephone numbers;
- date of birth (other than year);
- names and initials of minor children; or

- sensitive health information identifiable by individual (such as an individual's medical records).

**D. Notice to Respondent**

Any failure by Respondent to appear at a pre-hearing conference or at the hearing, or to comply with any order of the Hearing Officer requiring production of information in support of his defense, may be deemed an abandonment of his defenses to the notice and a waiver of any opportunity for a hearing, in which case the notice will be deemed to be final FINRA action.

**SO ORDERED.**

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Hearing Officer

Dated:

Copies to:

## STATEMENT OF FINANCIAL CONDITION OF

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

### I. Statement of Assets and Liabilities

#### A. Assets

List all assets owned by you, your spouse, or any other member of your household, directly or indirectly, and all assets which are subject to your or your spouse's possession, enjoyment, or control, regardless of whether legal title or ownership is held by a relative, trustee, lessor, or any other intermediary, including but not limited to the categories indicated below.

Description		Amount
1.	Cash	\$
2.	Cash Surrender Value of Insurance	\$
3.	Accounts Receivable	\$
4.	Loans or Notes Receivable	\$
5.	Real Estate	\$
6.	Furniture and Household Goods	\$
7.	Automobiles, Recreational Vehicles, Boats	\$
8.	Securities	\$
9.	Partnership Interests	\$
10.	Net Value of Ownership Interest in Business	\$
11.	Individual Retirement Accounts (IRAs)	\$
12.	Keogh Accounts or Plans	\$
13.	401(k) Accounts or Plans	\$
14.	Other Pension Assets	\$
15.	Annuities	\$
16.	Prepaid Expenses or Liabilities	\$
17.	Credit Balances on Credit Cards	\$
	Other (Itemize. Add rows below as necessary.)	
18.		\$
19.		\$

**Total Assets** \$

**B. Liabilities**

List all liabilities, including but not limited to the items listed below.

Description		Amount
20.	Mortgages	\$
21.	Auto Loans	\$
22.	Credit Card Debt	\$
23.	Loans on Insurance Policies	\$
24.	Installment Loans	\$
25.	Other Loans or Notes Payable	\$
26.	Accrued Real Estate Taxes	\$
27.	Judgments/Settlements Owed	\$
	Other (Itemize. Add rows below as necessary.)	
28.		\$
29.		\$

**Total Liabilities**

\$

**C. Net Worth (Assets Minus Liabilities)**

**Net Worth**

\$

#### **D. Required Documentation**

1. For each asset with a fair market value greater than \$1000, describe the asset, state the form of ownership (e.g. individual, joint, beneficial interest), provide a fair market value and explain how fair market value was determined (appraisal, comparison, estimate, etc.). **Provide copies of all such appraisals or any document supporting your estimate of the asset's value.**
2. For each liability, indicate the date incurred, the original amount of the liability, the length of the obligation, the interest rate, the collateral or security if any, the person responsible for the obligation, the outstanding balance, the name(s) and address(es) of all obligee(s), and your relationship (if any) to each creditor. **Provide all documents that support the information provided in this answer.**
3. List all domestic and foreign securities and commodities brokerage accounts and accounts at domestic and foreign banks or other domestic or foreign financial institutions in your or your spouse's name, under the control of you or your spouse, in which you or your spouse have or had a beneficial interest, or to which you or your spouse are or were a signatory **during the past two years, or since the date of the award, whichever period is longer.** For each account, specify the location of the account, account title, account number, and balance in cash or securities. **Attach copies of the monthly statements for all such accounts for the past 12 months, or since the date of the award, whichever period is longer.**
4. List any 401(k) plans, pension plans, Keogh plans, individual retirement accounts, profit sharing plans, thrift plans, life insurance policies or annuities, in which you have an interest, vested or otherwise. For each account or plan, specify the account name, the location of the account, account number, balance, and the terms of withdrawal or loan options. **Provide statements for each such account covering the past 12 months, or since the date of the award, whichever period is longer.**
5. List all credit cards, charge cards, or lines of credit in your name or to which you are a signatory, including the name of the credit issuer, account number, credit limit, and amount of indebtedness. **Attach copies of monthly account statements for the past 12 months, or since the date of the award, whichever period is longer.**



**II. Cash Flow Information**

**A. Annual Income<sup>4</sup>**

Annual income for the year before the year in which the award was issued [Year: _____]	\$
Annual income for the year in which the award was issued [Year: _____]	\$
<b>Annual</b> income for each year after the year in which the award was issued [Year: _____]	\$
[Year: _____]	\$
[Year: _____]	\$
Attach federal and state income tax filed by you or on your behalf (including personal, trust, or business returns) for each of the above years.	

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<sup>4</sup> "Income" should include any income attributable to your spouse if (1) you file joint federal tax returns or (2) you are jointly obligated on any indebtedness or expenses, including living expenses.

**B. Income/Receipts**

List all money or other income received from any source on a monthly basis during the past 12 months, or since the date of the award, whichever period is longer, by you, your spouse, or any other member of your household, identifying the source, recipient, and amount. For any income received on a basis other than monthly, convert to a monthly basis for the purposes of this statement.

	<b>Description</b>	<b>Source</b>	<b>Amount</b>
1.	Salary/Wages		\$
2.	Commissions/Advances		\$
3.	Consulting Fees		\$
4.	Dividends		\$
5.	Interest		\$
6.	Capital Gains/Losses		\$
7.	Annuities		\$
8.	Pensions		\$
9.	Rents/Royalties		\$
10.	Sales of Assets (Net)		\$
11.	Repayment of Loans		\$
12.	Payments others made on your behalf		\$
13.	Fringe Benefits (e.g., car)		\$
14.	Alimony/Child Support		\$
15.	Gifts/Bonuses		\$
16.	Inheritance		\$
	Other (Itemize. Add rows below as necessary.)		
17.			\$
18.			\$

**Total Receipts** \$

**C. Expenses/Disbursements**

List all monthly expenditures (for any purpose) for you or your household for the past 12 months, or since the date of the award, whichever period is longer, identifying the purpose and the amount, including projected expenses. For any expenditure that varies from month to month, indicate a range of amounts and the average amount on a monthly basis.

<b>Description</b>		<b>Amount</b>
1.	Mortgage/Rent	\$
2.	Food	\$
3.	Utilities	\$
4.	Payment on Loans	\$
5.	Real Estate Taxes	\$
6.	Insurance Premiums	\$
7.	Medical Expenses	\$
8.	Automobile Expenses	\$
9.	Alimony/Child Support	\$
10.	Income Taxes	\$
11.	Childcare	\$
12.	Education Expenses	\$
13.	Charitable Gifts	\$
14.	Attorneys/Professional Fees	\$
Other (Itemize. Add rows below as necessary.)		
15.		\$
16.		\$

**Total Expenses/Disbursements**    \$

If you anticipate unusual expenses in the coming 12 months, please describe them.

### **III. Other Information**

1. List any disbursement of \$1000 or more, made on your behalf, or on behalf of your spouse or children, by any other person or entity during the past two years, or since the date of the award, whichever period is longer. Include the amount of the disbursement and the name and address of the person or entity who made the disbursement. Produce all documents relating to each such disbursement.
2. List all cash transfers of \$1000 or more, or assets or property with a cost or fair market value of \$1000 or more, made by you during the past two years, or since the date of the award, whichever period is longer. Describe the asset and identify the value of the asset, the consideration received, and the relationship of the transferor to the transferee, or indicate that no such transfers have been made. Produce all documents relating or referring to or concerning each such transfer.
3. Identify any financial institution accounts (including any accounts at banks, savings and loans, credit unions, broker-dealers, etc.), other than those identified in Item I.F. above, in which you have deposited more than \$1000 during the past two years, or since the date of the award, whichever period is longer, or indicate that no such deposits have been made. Identify the person(s), entity, or entities with beneficial ownership of each account.
4. List all dependents, their ages, and whether or not they reside with you.
5. Attach federal and state income tax returns filed by you or on your behalf (including personal, trust, or business returns) during the past two years, or since the date of the award, whichever period is longer.
6. Attach any federal gift tax returns filed by you or your spouse for the past two years, or since the date of the award, whichever period is longer.
7. Attach copies of your pay stubs for the last eight pay periods.
8. Attach any financial statements prepared by you or on your behalf during the past two years, or since the date of the award, whichever period is longer, for any purpose (e.g., a financial statement provided to a bank to secure a loan).

9. Attach copies of documents evidencing all outstanding loans for which you or your spouse is either a lender or borrower.
  
10. For any mortgage for which you are a signatory, please provide a copy of the monthly mortgage statement for the last 12 months, or since the date of the award, whichever period is longer, and evidence that the amount was paid.

## DECLARATION

Under penalty of perjury, I declare that I have examined the information given in this statement and the attached documents and, to the best of my knowledge and belief, it is true, correct, and complete. I further declare that I have no assets, owned either directly or indirectly, or income of any nature other than as shown in this statement and the attached documents. I understand that any material misstatements or omissions I have made in this statement or the attachments may constitute criminal violations, punishable under law. I agree to provide FINRA, upon request, with additional documentation to support the financial information set forth above and in the attached documents.

Executed on \_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)