

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ROBERT HENDERSON
(CRD No. 1160413),

Respondent.

Disciplinary Proceeding
No. 2017053462401

Hearing Officer–RES

ORDER CONTINUING IN-PERSON HEARING

I. Background

This proceeding concerns the alleged failures of Respondent Robert Henderson to disclose outside business activities and to amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose federal tax liens. Respondent denies the allegations against him. The hearing was scheduled for July 2020 and, because of the COVID-19 pandemic, rescheduled to October 2020. In August 2020, because of the COVID-19 pandemic, FINRA decided to conduct all in-person disciplinary hearings at a site in the Washington, D.C. metropolitan area “equipped with safety features to address public health concerns” enabling all present to participate safely.¹

On September 10, 2020, I issued an order granting Respondent’s motion to continue the hearing because, in light of the ongoing COVID-19 pandemic, it was impracticable to hold an in-person hearing. The hearing is scheduled to be held March 16-18, 2021, with backup hearing dates of May 18-20, 2021. I am now issuing this Order to continue the hearing to the backup hearing dates.

II. Discussion

A Hearing Officer has broad discretion to continue a hearing based on the particular facts and circumstances presented.² That discretion is guided by FINRA Rule 9222, which provides that “[a] hearing shall begin at the time and place ordered, unless the Hearing Officer for good

¹ See Order Addressing Hearings During COVID-19 Pandemic (August 3, 2020).

² *Dep’t of Enforcement v. Meyers Assocs., L.P.*, No. 2013035533701, 2017 FINRA Discip. LEXIS 47, at *39 (Bd. of Governors Dec. 22, 2017), *modified*, Exchange Act Release No. 86193, 2019 SEC LEXIS 1626 (June 24, 2019).

cause shown ... postpones the commencement of the hearing ... subject to the limitations stated in paragraph (b)(2).”³ Paragraph (b)(2) of FINRA Rule 9222 provides that “[p]ostponements [and] adjournments ... shall not exceed 28 days unless the Hearing Officer states on the record or provides by written order the reasons a longer period is necessary.”⁴

FINRA Rule 9222 specifies five factors a Hearing Officer must consider when deciding whether to continue the start of a hearing: (1) the length of the proceeding to date; (2) the number of postponements, adjournments, or extensions already granted; (3) the stage of the proceeding at the time of the request for a continuance; (4) potential harm to the investing public if an extension of time, adjournment, or postponement is granted; and (5) such other matters as justice may require.⁵

The length of this proceeding to date is thirteen months. The continuance I am considering would be the third in the case. All continuances have been necessitated by the ongoing COVID-19 pandemic. The continuance to backup hearing dates was contemplated by the earlier continuance order that I issued because, at the time, FINRA had administratively suspended in-person hearings. There is little immediate potential harm to the investing public because Respondent is not currently registered with a FINRA member firm. The continuance I am considering would exceed 28 days, but is based upon the back-up dates agreed to by the parties.

Based on the above facts and circumstances, I find that good cause exists for continuing the hearing. The hearing is **CONTINUED** to the backup hearing dates of **May 18-20, 2021**. The Final Pre-Hearing Conference shall be held **May 7, 2021**, at 10:00 a.m. Eastern Time. The hearing dates of March 16-18, 2021 are stricken from the calendar.

SO ORDERED.



Richard E. Simpson
Hearing Officer

Dated: February 2, 2021

³ FINRA Rule 9222(b); *accord* OHO Order 18-07 (2014041860801) (May 2, 2018), at 12, http://www.finra.org/sites/default/files/OHO_Order_18-07_2014041860801.pdf.

⁴ *Accord* OHO Order 18-07, at 12.

⁵ FINRA Rule 9222(b)(1); *accord* OHO Order 16-25 (2013038986001) (Sept. 7, 2016), at 1, http://www.finra.org/sites/default/files/OHO_Order16-25_2013038986001_0_0.pdf.

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