

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JAMES LUKEZIC
(CRD No. 4284800),

Respondent.

Disciplinary Proceeding
No. 2022073425001

Hearing Officer–LOM

ORDER DENYING RESPONDENT’S MOTION TO STAY PROCEEDING

I. Introduction

This proceeding commenced with the filing of a Complaint on December 17, 2024. Respondent filed an Answer on January 29, 2025. On February 6, the parties jointly proposed a pre-hearing schedule leading to a five-day hearing in August. On February 7, 2025, I held an initial pre-hearing conference. On February 12, I issued a Case Management and Scheduling Order. That Order imposed various deadlines and set the hearing to begin on August 11, 2025.

Respondent filed a motion to stay this FINRA disciplinary proceeding on February 28, 2025.¹ FINRA’s Department of Enforcement filed its opposition on March 14, 2025.² For the reasons discussed below, Respondent’s Motion to Stay is **DENIED**.

The parties are informed that the schedule set forth in the Case Management and Scheduling Order still stands. All due dates remain the same, and the hearing is still set to begin on August 11, 2025.

A. Respondent’s Motion for Stay

Respondent moves to stay this FINRA disciplinary proceeding “in light of uncertainties stemming from the United States Supreme Court’s decision in *SEC v. Jarkesy*.”³ Respondent says in his motion that he is “in the process of filing suit against both FINRA and the SEC

¹ Respondent’s Motion to Stay Proceeding (“Motion to Stay”).

² Enforcement’s Opposition to Respondent’s Motion for Stay of Hearing (“Enf. Opp.”).

³ Motion to Stay, at 1.

challenging the constitutional basis for this present proceeding.”⁴ By way of “background,” Respondent asserts that the decision in *Jarkesy* “established that claims sounding in common law fraud cannot be adjudicated by SEC administrative courts.”⁵ From that assertion, Respondent extrapolates to the conclusion that FINRA’s claims here “belong in an Article III court before a jury.”⁶ Respondent argues that the claims here—unauthorized trading and the provision of false and misleading information to FINRA in written responses to FINRA Rule 8210 requests and testimony taken pursuant to Rule 8210—are the equivalent of common law fraud.⁷ Respondent maintains that this disciplinary proceeding “cannot properly continue” until his arguments regarding the constitutionality of the disciplinary proceeding are resolved in the lawsuit he intends to file.⁸

It appears that Respondent is requesting an indefinite stay of all deadlines and an indefinite postponement of the hearing. He proposes no alternate date for the hearing.

B. Enforcement’s Opposition

In its opposition to Respondent’s motion to stay, Enforcement provides more information about Respondent’s anticipated lawsuit. According to Enforcement, shortly after Respondent’s filing of the Motion for Stay in this proceeding, Respondent filed a motion for temporary restraining order (“TRO”) in the U.S. District Court for the District of Columbia to preclude FINRA and the Securities and Exchange Commission from engaging in this disciplinary proceeding.⁹ Enforcement further reports that the next day after filing the motion for TRO, Respondent filed a complaint in District Court, asserting various Fifth, Sixth, and Seventh Amendment violations, focused on the private non-delegation doctrine and due process rights.¹⁰ Enforcement says that the District Court has denied the TRO.¹¹ However, the District Court also has issued a briefing schedule on Respondent’s request for a preliminary injunction and set a hearing on April 17, 2025.¹² Respondent has filed nothing in this proceeding regarding events in the District Court case.

Enforcement argues that Respondent has failed to meet the standard for postponing or adjourning a hearing.¹³ Enforcement asserts that FINRA Rule 9222 governs and requires that

⁴ Motion to Stay, at 1.

⁵ Motion to Stay, at 1.

⁶ Motion to Stay, at 1.

⁷ Motion to Stay at 2.

⁸ Motion to Stay at 3.

⁹ Enf. Opp. at 3; *Lukezic v. FINRA et al.*, 1:25-CV-00623, Dkt. 1 (D.D.C. Mar. 3, 2025).

¹⁰ Enf. Opp. at 3; *Lukezic v. FINRA et al.*, 1:25-CV-00623, Dkt. 2 (D.D.C. Mar. 4, 2025).

¹¹ Enf. Opp. at 3; *Lukezic v. FINRA et al.* 1:25-CV-00623, Dkt. 9 (D.D.C. Mar. 10, 2025).

¹² Enf. Opp. at 3.

¹³ Enf. Opp. at 3–8.

“good cause” be shown to justify such a delay. The Rule also sets forth five factors to be considered: (i) the length of the proceeding; (ii) the number of postponements, adjournments, or extensions already granted; (iii) the stage of the proceedings; (iv) potential harm to the investing public if an extension of time, adjournment, or postponement is granted; and (v) such other matters as justice may require. Rule 9222(b)(2) emphasizes the importance of adhering to a schedule set by a Hearing Officer, by providing that postponements can be no longer than 28 days unless the Hearing Officer identifies the reasons a longer period is necessary.

C. Discussion

FINRA Rule 9222 governs a request to postpone or adjourn a hearing. It allows a Hearing Officer to extend time limits and postpone a hearing “for good cause shown.” The only reason Respondent proffered at the time he filed his Motion to Stay for staying all deadlines and putting off the hearing was that Respondent planned to initiate a law suit challenging this proceeding as unconstitutional. Evidently, Respondent has now done commenced such an action in the U.S. District Court. But a parallel proceeding does not constitute good cause to stay a FINRA disciplinary proceeding. Protection of the securities industry and members of the investing public often requires prompt action without waiting for the outcome of another proceeding.¹⁴

FINRA Rule 9222 also specifies factors that should be considered in determining whether to postpone a hearing. In this case, the most significant factor to be considered is the potential harm to the investing public if the indefinite extension of time requested were to be granted. Respondent is alleged to have engaged in unauthorized trading and to have provided false information and testimony when FINRA investigated that trading. The alleged misconduct is significant, and the lack of candor with the regulator suggests a potential refusal to be held accountable. Because Respondent is still in the industry, the allegations need to be resolved as promptly as possible, consistent with FINRA’s rules regarding these proceedings and considerations of fairness. Otherwise, the investing public may be at risk of future misconduct.

An indefinite stay, as requested by Respondent, is not authorized by FINRA’s rules for proceedings like this.¹⁵ The Office of Hearing Officers has repeatedly denied requests for indefinite stays, finding them improper and inconsistent with FINRA’s regulatory mission.¹⁶ The requirement in Rule 9222(b) that any postponement of more than 28 days be explained on the

¹⁴ OHO Order 23-26 (2019063152202) (Sept. 20, 2023), at 4, https://www.finra.org/sites/default/files/2024-05/OHO_23-26-Lebental_2019063152202.pdf (collecting orders).

¹⁵ OHO Order 98-31 (C06980015) (Oct. 23, 1998), at 1, https://www.finra.org/sites/default/files/OHODecision/p007764_0.pdf.

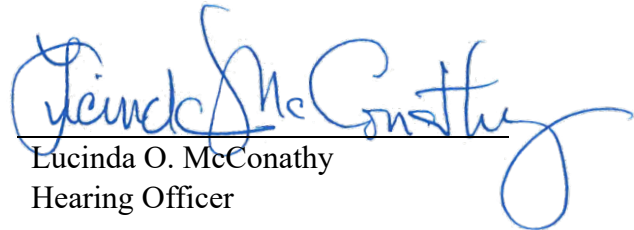
¹⁶ See OHO Order 23-26, at 5–6 (“FINRA must stand ready to fulfill its statutory obligations to protect investors and maintain fair and orderly markets, and an indefinite postponement would thwart FINRA’s ability to fulfill its statutory obligation.”) (internal quotations omitted); OHO EXP21-02 (FPI210005) (Aug. 24, 2021), at 4–5, https://www.finra.org/sites/default/files/2021-12/OHO_EXP21-02FPI210005.pdf (finding that an indefinite stay is “contrary to FINRA’s regulatory mission and its responsibility as an SRO (self-regulatory organization) for overseeing the conduct of member firms and their associated persons”); OHO Order 98-31, at 1–2.

record demonstrates the importance of timely resolution of disciplinary proceedings. The request for an indefinite stay is inconsistent with FINRA's regulatory responsibilities.

II. ORDER

For the reasons set forth above, Respondent's motion for an indefinite stay of all proceedings in this case, including the hearing, is **DENIED**.

SO ORDERED.



Lucinda O. McConathy
Hearing Officer

Dated: March 17, 2025

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