

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOHN LOWRY
(CRD No. 4336146),

and

KIM MONCHIK
(CRD No. 2528972),

Respondents.

Disciplinary Proceeding
No. 2022075597101

Hearing Officer–BDC

**ORDER DENYING RESPONDENT LOWRY'S MOTION TO
RESCHEDULE THE HEARING**

I. Background

The hearing in this disciplinary proceeding is currently scheduled for October 9–17, 2025. On September 8, 2025, Respondent Lowry filed a motion to reschedule the hearing (“Lowry’s Motion”). According to Lowry’s Motion, the request to reschedule “arises due to Mr. Lowry’s commitment to attend a wedding in Tennessee from October 10 to 17.” No other details regarding the wedding or the reasons for Lowry’s unavailability during that entire time period were provided. Lowry contends he informed his counsel that he would be unavailable on those dates but his unavailability was inadvertently not conveyed to the Department of Enforcement or mentioned during a pre-hearing conference when the hearing dates were rescheduled from July to October 2025. As an additional basis for his request, Lowry states that attorney [REDACTED], who Respondents intend to call as a witness at the hearing, is unavailable for the October 9–17 hearing dates as he will be in Arizona at that time.¹ Mr. [REDACTED] also represents two witnesses on Enforcement’s witness list. Lowry represents in his motion that Respondent Kim Monchik consents to rescheduling the hearing but Enforcement does not.

¹ Lowry’s Motion states that Mr. [REDACTED] submitted a letter to the Hearing Officer dated August 27, 2025, explaining that he would be unavailable for the October hearing dates. The Office of Hearing Officers did not receive the letter. Counsel for Lowry subsequently provided a copy of the letter to the Office of Hearing Officers and to Enforcement.

On September 10, 2025, I held a pre-hearing conference to address, among other things, Lowry's Motion. During the pre-hearing conference, Enforcement reiterated its opposition to Lowry's Motion and argued that Lowry has not demonstrated good cause for the continuance of the hearing dates. For the reasons discussed below, Lowry's Motion is denied.

II. Discussion

A Hearing Officer has broad discretion to determine whether to grant a request for a continuance.² That discretion is limited by FINRA Rule 9222. It provides that “[a] hearing shall begin at the time and place ordered, unless the Hearing Officer, for good cause shown . . . postpones the commencement of the hearing . . . subject to the limitations in paragraph (b)(2).” FINRA Rule 9222(b)(2) provides that “[p]ostponements, adjournments, or extensions of time for filing papers 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.” The Rule is primarily “intended to ensure prompt resolution of [FINRA’s] disciplinary proceedings, which is necessary to enable [FINRA] to carry out its regulatory mandate and fulfill its responsibilities in protecting the public interest.”³

FINRA Rule 9222(b)(1) identifies five factors that a Hearing Officer must consider when deciding whether to grant a continuance: (1) the length of the proceeding to date; (2) the number of postponements, adjournments, or extensions already granted; (3) the stage of the proceedings 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.

I considered the five factors specified in FINRA Rule 9222 for postponing a hearing and they weigh against granting a continuance. First, this proceeding will have been pending for approximately eleven months when it begins on October 9. Lowry argues that Hearing Officers frequently grant adjournments resulting in a hearing being scheduled one year or more from the filing of the Complaint and cites two OHO orders in support.⁴ But those cases are distinguishable from this case. In *Kolta*, unlike here, the continuance was granted early in the proceeding and it was the first continuance.⁵ Moreover, the investigative file in that case was “massive” and Respondent needed additional time to review the large number of documents produced by Enforcement.⁶ In *Patatian*, four of the five factors disfavored a continuance but the motion was

² *Richard Allen Riemer, Jr.*, Exchange Act Release No. 84513, 2018 SEC LEXIS 3022, at *20 (Oct. 31, 2018).

³ OHO Order 13-01 (2009019108901) (Jan. 2, 2013), at 8, https://www.finra.org/sites/default/files/OHODecision/p229434_0_0.pdf (citing OHO Order 06-28 (CLI050007) (Mar. 24, 2006), https://www.finra.org/sites/default/files/OHODecision/p017538_0_0.pdf).

⁴ *See* OHO Order 23-15 (2018057297102) (Mar. 23, 2023), https://www.finra.org/sites/default/files/2023-05/oho_order_23-15_2018057297102_kolta.pdf; OHO Order 21-13 (2018057235801) (Oct. 29, 2021), <https://www.finra.org/sites/default/files/2022-05/21-13-Order-Granting-Motion-for-Continuance.pdf>.

⁵ OHO Order 23-15, at 3.

⁶ *Id.*

granted because Respondent’s counsel withdrew three days before pre-hearing submissions were due and Respondent’s new counsel only received a partial production of documents from the prior counsel.⁷ Respondent then received over 27,000 more files from Enforcement shortly before the new deadline for submitting pre-hearing submissions.⁸ Here, discovery was completed nearly eight months ago and pre-hearing submissions were filed over two months ago.

Second, while this is the first request for a continuance by Lowry, it is the second request by a Respondent. In July, after Monchik obtained new counsel, I granted her motion for a continuance and postponed the hearing for over two months to accommodate counsel’s schedule and to allow time to review the file.

Third, this proceeding is at a late stage—indeed, the pre-hearing submissions were filed by the parties back in June and most of the pre-hearing deadlines have passed. Lowry argues that Hearing Officers routinely grant postponements requested late in the proceeding, but neither the cases cited by Lowry in support of his argument nor other cases I reviewed involved a motion filed just four weeks before the start of the hearing or months after pre-hearing submissions were filed.⁹ Moreover, Lowry was aware or should have been aware of his purported unavailability when the hearing dates were set back in July. At the very least, Lowry should have raised the issue in July, once he learned that his counsel had inadvertently agreed to schedule the hearing on dates that he was not available, instead of two months later.

Fourth, while there is not a significant risk of potential harm to investors if the matter is continued, as Enforcement noted during the September 10 pre-hearing conference, Respondents are senior members of their firm who effectively control their firm’s operations and ensure that the firm complies with its regulatory obligations potentially impacting its customers. Thus, there is at least some risk to investors if a postponement is granted.

Application of the fifth factor (“such other matters as justice may require”) also disfavors a continuance. Lowry simply did not provide sufficient facts to demonstrate good cause for his request to reschedule the hearing dates. The stated basis for Lowry’s request is his purported obligation to attend a wedding in Tennessee, but he did not provide the date of the wedding, identify who is getting married, or explain why his attendance at the wedding would cause him to be unavailable for six of the scheduled seven hearing days. Even during the pre-hearing conference to discuss Lowry’s Motion, his counsel still could not explain why Lowry’s attendance at the wedding required him to be unavailable for over a week. In addition, it appears likely that Lowry’s attendance at the wedding could be accomplished by means other than rescheduling the entire hearing, including adjourning early one day and/or beginning late on one

⁷ OHO Order 21-13, at 2–3.

⁸ *Id.* at 3.

⁹ *See* OHO Order 22-20 (2017055886402) (Sept. 23, 2022), <https://www.finra.org/sites/default/files/2023-05/oho-order-22-20-2017055886402-cantone.pdf> (motion for continuance filed over two months before start of hearing); OHO Order 21-13, at 3–4 (motion filed before pre-hearing submissions due); OHO Order 20-17 (2016048837401) (Sept. 4, 2020), <https://www.finra.org/sites/default/files/2021-07/oho-order-20-17-2016048837401.pdf> (request for postponement made approximately two months before start of hearing).

day to accommodate Lowry's travel to and from the wedding. But Lowry did not appear amenable to those options.

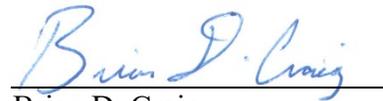
Finally, Mr. [REDACTED] purported unavailability also does not provide a sufficient basis for granting Lowry's Motion. Lowry should have been aware of his witnesses' availability when he agreed to the October hearing dates. And there are other, less disruptive ways to procure Mr. [REDACTED] testimony, including seeking leave to present his testimony by videoconference.

After considering the factors set forth in FINRA Rule 9222, as well as the arguments made in Lowry's Motion and by the parties during the September 10, 2025 pre-hearing status conference, I find that Lowry has not shown good cause to reschedule the hearing dates.

III. Order

For the reasons addressed above, Lowry's Motion is **DENIED**.

SO ORDERED.



Brian D. Craig
Hearing Officer

Dated: September 12, 2025

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