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FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, Complainant, v. JEFFREY ALAN STANLEY (CRD No. 4645288), Respondent.	Disciplinary Proceeding No. 2023080111701 Hearing Officer–BDC

ORDER DENYING RESPONDENT'S EMERGENCY MOTION FOR RECUSAL OF THE HEARING OFFICER AND ALL FINRA ADJUDICATORS DUE TO STRUCTURAL FINANCIAL BIAS UNDER FINRA RULE 8320

I. Introduction

On August 28, 2025, the Department of Enforcement filed a Complaint against Respondent Jeffrey Stanley alleging that he violated FINRA Rules 3110 and 2010 by failing to reasonably supervise the cash management business of the member firm with which Respondent was associated. The hearing in this disciplinary proceeding is scheduled for June 8–18, 2026.

On April 9, 2026, Respondent filed a motion titled, "Emergency Motion for Recusal of Hearing Officer and All FINRA Adjudicators Due to Structural Financial Bias under FINRA Rule 8320(a)" ("Recusal Motion"). In essence, Respondent argues that the assigned Hearing Officer, as well as all other FINRA adjudicators, including members of the National Adjudicatory Council ("NAC"), should be disqualified from this proceeding because they purportedly are paid from fines imposed on respondents in FINRA disciplinary proceedings. Respondent does not address the standard for recusal or disqualification under FINRA rules. Instead, he argues that the financial structure creates "a bias that violates the Due Process Clause of the Fifth Amendment" to the U.S. Constitution.

Enforcement filed an opposition to the Recusal Motion on April 22, 2026.[1] Enforcement contends Respondent's Recusal Motion should be denied because it did not include an affidavit alleging facts to constitute grounds for disqualification and was not filed within 15 days of when

[1] Enforcement filed an omnibus response to Respondent's Recusal Motion, as well as Respondent's motion to dismiss on constitutional grounds ("Motion to Dismiss") and his demand for trial by jury ("Jury Trial Demand"). All of the filings contain various overlapping constitutional arguments. The Hearing Officer assigned to this case issued a separate order addressing Respondent's Motion to Dismiss and Jury Trial Demand on May 6, 2026.

Respondent learned of the facts believed to constitute the disqualification, as required under FINRA Rule 9233(b). Enforcement further argues that, even if the procedural defects of Respondent's Recusal Motion are ignored, Respondent still has not met the substantial burden required to justify disqualifying the assigned Hearing Officer and the other potential adjudicators.

Pursuant to FINRA Rule 9233(c), upon receipt of the Recusal Motion and all related filings, I promptly conducted an investigation and determined that Respondent had not demonstrated bias and disqualification is not required. For the reasons addressed below, I deny Respondent's Recusal Motion.

II. Discussion

A. Legal Standard for Hearing Officer Disqualification

FINRA Rule 9160, which sets forth FINRA's general standard for recusal or disqualification, provides that "[n]o person shall participate as an Adjudicator in a matter governed by [FINRA's Code of Procedure] as to which he or she has a conflict of interest or bias, or circumstances otherwise exist where his or her fairness might reasonably be questioned." Disqualification of a Hearing Officer is governed by FINRA Rule 9233, which similarly provides that a party may move to disqualify a Hearing Officer "based upon a reasonable, good faith belief that a conflict of interest or bias exists or circumstances otherwise exist where the Hearing Officer's fairness might reasonably be questioned."[2] Under Rule 9233(c), "[a] motion for disqualification of a Hearing Officer shall be decided by the Chief Hearing Officer."[3]

In applying FINRA Rules 9160 and 9233, FINRA's Office of Hearing Officers ("OHO") borrows heavily from the standards for recusal and disqualification of judges as set forth in Section 455 of Title 28 of the United States Code.[4] Section 455(a) requires a federal judge to disqualify himself in any proceeding in which his "impartiality might reasonably be questioned." When applying this standard, federal courts focus on "whether an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality."[5] This test "assumes that a reasonable

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[2] FINRA Rule 9233(b).

[3] FINRA Rules 9233 and 9234 govern the disqualification of a hearing officer and hearing panelists, respectively. FINRA rules do not permit the Chief Hearing Officer to disqualify any other adjudicators, including members of the NAC. *See* FINRA Rule 9160. Thus, this Order is limited to Respondent's request for disqualification of the Hearing Officer assigned to this case.

[4] *See* OHO Order 97-4 (CMS960105) (Oct. 30, 1997), at 3, https://www.finra.org/sites/default/files/OHODecision/p007809_0_0.pdf.

[5] *United States v. Scrushy*, 721 F.3d 1288, 1303 (11th Cir. 2013) (internal quotation marks omitted). Other circuits have adopted the same or substantially similar constructions. *See*, *e.g.*, *Clemens v. U.S. Dist. Ct.*, 428 F.3d 1175, 1178 (9th Cir. 2005); *United States v. Cooley*, 1 F.3d 985, 993 (10th Cir. 1993); *United States v. Lovaglia*, 954 F.2d 811, 815 (2d Cir. 1992); *Pepsico*, *Inc. v. McMillen*, 764 F.2d 458, 460 (7th Cir. 1985).

person *knows and understands all the relevant facts*."[6] Accordingly, federal courts have held that "the initial inquiry is whether a reasonable *factual* basis exists for calling the judge's impartiality into question."[7] In other words, the relevant inquiry is "how things appear to the well-informed, thoughtful and objective observer, rather than the hypersensitive, cynical, and suspicious person."[8]

Section 455(a) is not to be construed so broadly that recusal would be mandated "upon the merest unsubstantiated suggestion of personal bias or prejudice."[9] Because a judge "is presumed to be impartial . . . the party seeking disqualification bears a substantial burden of proving otherwise."[10] "Where a case . . . involves remote, contingent, indirect or speculative interests, disqualification is not required."[11]

B. Respondent's Motion Is Procedurally Deficient

As a threshold matter, Respondent's Recusal Motion is deficient as it does not comply with the requirements of FINRA Rule 9233. Rule 9233(b) requires that any motion to disqualify a Hearing Officer "shall be accompanied by an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification, and the date on which the Party learned of those facts." Respondent did not include with his Recusal Motion an affidavit "setting forth in detail the facts" supporting disqualification or the date he learned of those facts.

Rule 9233(b) also requires that a motion to disqualify a Hearing Officer be filed not later than 15 days after a party learns of the facts that he believes may constitute disqualification. The basis for Respondent's Recusal Motion is an argument made in a motion for reconsideration filed in *Southeast Investments. N.C., Inc.*, on February 9, 2026—nearly three months ago—by respondents in an unrelated SEC action.[12] Respondent also relies on *Tumey v. Ohio*, a Supreme Court decision issued in 1927, holding that a defendant's right to due process was violated when the judge had a direct pecuniary interest in finding him guilty.[13] Nothing referenced in the motion for reconsideration or in the *Tumey* decision is new and neither occurred within 15 days before the filing of Respondent's Recusal Motion, as is required by FINRA Rule 9233(b).

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[6] *In re Drexel Burnham Lambert*, *Inc*., 861 F.2d 1307, 1313 (2d Cir. 1988) (citing *McMillen*, 764 F.2d at 460, and *United States v. Ferguson*, 550 F. Supp. 1256, 1260 (S.D.N.Y 1982)).

[7] *Cooley*, 1 F.3d at 993.

[8] *United States v. Jordan*, 49 F.3d 152, 156 (5th Cir. 1995).

[9] *Franks v. Nimmo*, 796 F.2d 1230, 1235 (10th Cir. 1986) (internal quotation marks omitted).

[10] *Fletcher v. Conoco Pipe Line Co.*, 323 F.3d 661, 664 (8th Cir. 2003) (citation and internal quotation marks omitted).

[11] *Lovaglia*, 954 F.2d at 815 (citing *Drexel Burnham Lambert*, 861 F.2d at 1313).

[12] Recusal Motion at 1 (citing respondents' motion for reconsideration in *Southeast Investments. N.C., Inc.,* SEC Admin. Proc. File No. 3-19185 (Feb. 9, 2026), *available at* https://www.sec.gov/files/litigation/apdocuments/3-19185-2026-02-09-motion.pdf (last visited May 1, 2026)).

[13] *Tumey v. Ohio*, 273 U.S. 510 (1927).

Despite these procedural deficiencies, I considered Respondent's Recusal Motion on the merits. As discussed below, Respondent's arguments for recusal or disqualification also fail on the merits.

C. Respondent Has Not Demonstrated Bias By the Assigned Hearing Officer or Any OHO Hearing Officer

Respondent is not alleging that the assigned Hearing Officer or any specific FINRA employees involved in the adjudication of this matter are "subjectively biased or acting in bad faith."[14] Instead, Respondent contends that FINRA's corporate structure creates a financial incentive for FINRA Hearing Officers to impose maximum penalties against respondents since, he contends, their compensation is tied to fines collected.[15] He argues that, under Rule 8320(a), fines and penalties imposed on respondents in FINRA disciplinary actions are paid to the "Treasurer of FINRA" and used for "general corporate purposes."[16] He then alleges that "general corporate purposes include … compensation for FINRA staff—including prosecutors and adjudicators involved in enforcement proceedings."[17] Respondent contends that this financial incentive creates a "bias that violates the Due Process Clause."[18]

1. Respondent's Argument Is Factually Flawed

Respondent's contention that FINRA employees, including Hearing Officers, are paid from the proceeds of fines collected in disciplinary proceedings is incorrect. "FINRA's operating budget does not include fines, and no compensation or benefits decisions are based on fines imposed."[19] Instead, fine proceeds may only be used for the following four purposes:

1. Capital initiatives or nonrecurring strategic expenditures that promote more effective and efficient regulatory oversight by FINRA;

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[14] Recusal Motion at 3.

[15] *Id.* at 2. The primary basis for Respondent's Recusal Motion is an argument made in a motion for reconsideration filed by FINRA members following an adverse order issued by the SEC in *Southeast Investments. N.C., Inc. See Southeast Investments, N.C., Inc.*, Exchange Act Release No. 104750, 2026 SEC LEXIS 325 (Jan. 30, 2026). They argued in that motion that the fines FINRA collects in disciplinary actions are used, in part, to pay its staff, including FINRA hearing officers, which they argued created an "impermissible profit motive" that deprived them of a fair process in violation of the Due Process Clause of the Fifth Amendment. Respondents' Motion for Reconsideration at 7, *Southeast Investments. N.C., Inc.,* SEC Admin. Proc. File No. 3-19185 (Feb. 9, 2026), *available at* https://www.sec.gov/files/litigation/apdocuments/3-19185-2026-02-09-motion.pdf (last visited May 1, 2026). The Motion for Reconsideration was denied by the SEC on March 16, 2026. *See Southeast Investments, N.C., Inc.*, Exchange Act Release No. 104995, 2026 SEC LEXIS 691 (Mar. 16, 2026).

[16] Recusal Motion at 1.

[17] *Id.*

[18] *Id.*

[19] FINRA, Report on the Use of 2023 Fine Monies, https://www.finra.org/about/annual-reports/report-use-2023-fine-monies (last visited May 1, 2025).

2. Activities to educate investors, promote compliance by member firms through education, compliance resources or similar projects, or ensure FINRA employees are highly trained in the markets, products and businesses it regulates;

3. Capital initiatives required by new legal, regulatory or audit requirements; or

4. Replenishing reserves in years where such reserves drop below levels reasonably appropriate to preserve FINRA's long-term ability to fund its regulatory obligations.[20]

Thus, neither the assigned Hearing Officer nor any other FINRA employee involved in the adjudication of this matter has a "direct financial incentive" to levy fines against Respondent in this proceeding.[21]

2. FINRA's Financial Structure Does Not Violate Respondent's Due Process Rights

FINRA's financial structure also does not violate Respondent's due process rights. As noted above, in support of his Recusal Motion, Respondent relies on the Supreme Court decision in *Tumey v. Ohio*.[22] He also relies on *Caperton v. A.T. Massey Coal Company*.[23] In both cases, the Court found due process violations based on a financial bias involving the judge hearing the case. But both cases are factually distinguishable from the facts here, and neither case stands for the broad proposition advanced by Respondent that FINRA adjudicators are unconstitutionally biased simply because of their FINRA employment.

In *Tumey*, the Court held that the mayor of a town, who also presided over a criminal trial of a defendant, should have been disqualified from the matter "because of his direct pecuniary interest in the outcome, and because of his official motive to convict and to graduate the fine to help the financial needs of the village."[24] And in *Caperton*, the Court concluded that "there is a serious risk of actual bias—based on objective and reasonable perceptions—when a person with a personal stake in a particular case had a significant and disproportionate influence in placing the judge on the case by raising funds or directing the judge's election campaign when the case was pending or imminent."[25]

But unlike the adjudicators in *Tumey* and *Caperton*, FINRA employees, including FINRA Hearing Officers, have no direct pecuniary interest in the outcome of a FINRA disciplinary proceeding. The Eleventh Circuit, examining the same Supreme Court cases cited by

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[20] *Id.*

[21] Recusal Motion at 1.

[22] *Id.* at 2–3.

[23] 556 U.S. 868, 884 (2009); Recusal Motion at 3.

[24] *Tumey*, 273 U.S. at 535.

[25] *Caperton*, 556 U.S. at 884.

Respondent in a case involving municipal judges, explained that "[t]he fact that a judge works for a government, which gets a significant portion of its revenues from fines and fees, is not enough to establish an unconstitutional risk of bias on the part of the judge."[26] Similarly, the SEC has also rejected the claim that it is "unfair" for FINRA to allegedly act as the "judge, the prosecutor and the jury" where "there is no evidence that [FINRA] rules were not followed."[27]

Moreover, as the SEC recently explained, "courts have held that the requirements of constitutional due process . . . do not apply to FINRA (or its predecessor), because it is not a state actor."[28] Thus, Respondent's argument that FINRA's structure creates a financial bias that violates the due process clause of the Fifth Amendment is unavailing.

For all of the above reasons, Respondent has not met the standard for disqualification of a Hearing Officer under FINRA Rules 9160 and 9233.

D. Respondent's Alternative Forms of Relief Are Denied

In addition to seeking to disqualify the assigned Hearing Officer and all FINRA employees involved in the adjudication of this matter, Respondent seeks other forms of relief. For the reasons explained below, I deny Respondent's requests for alternative forms of relief.

First, Respondent requests a stay of this proceeding "pending appointment of neutral adjudicators with no employment or financial connection to FINRA."[29] On April 22, 2026, I appointed two hearing panelists to this matter who are not FINRA employees and have no financial connection to FINRA.[30] To the extent Respondent is seeking a stay pending the appointment of a third hearing panelist that is not employed by FINRA, FINRA rules do not allow that structure for the three-person hearing panel. Under FINRA Rule 9231, hearing panels must be composed of a Hearing Officer (who is a FINRA employee) and two hearing panelists who are "associated with a member of FINRA or retired therefrom." Thus, Respondent's request for a stay of the proceeding on this basis is denied.[31]

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[26] *Brucker v. City of Doraville*, 38 F.4th 876, 884 (11th Cir. 2022); *see also J.F. v. Adams*, No, 1:21-cv-11150 (ALC), 2024 U.S. Dist. LEXIS 57551, *22 (S.D.N.Y. Mar. 29, 2024) (in case involving "Impartial Hearing Officers" under the Individuals with Disabilities Education Act, holding that the hearing officers were not biased as a matter of law based solely on their employment with New York City).

[27] *Newport Coast Sec., Inc.*, Exchange Act Release No. 88548, 2020 SEC LEXIS 917, at *47–48 (Apr. 3, 2020) (internal quotation marks omitted).

[28] *William Joseph Kielczewski*, Exchange Act Release No. 104352, 2025 SEC LEXIS 3108, at *34 (Dec. 9, 2025), *petition for review filed*, No. 26-1006 (D.C. Cir. Jan. 8, 2026) (citing *Santos-Buch v. FINRA*, 591 F. App'x 32, 33–34 (2d Cir. 2015); *Epstein v. SEC*, 416 F. App'x 142, 148 (3d Cir. 2010); and *Desiderio v. NASD*, 191 F.3d 198, 206 (2d Cir. 1999)). The Hearing Officer addressed this issue in greater detail in his order denying Respondent's Motion to Dismiss and Jury Trial Demand.

[29] Recusal Motion at 9.

[30] Apr. 22, 2026, Notice of Appointment of Hearing Panelists.

[31] *See* Rule 9222 ("the Hearing Officer may, for good cause shown…, postpone or adjourn any hearing.").

Respondent also requests that this matter be referred to a "federal district court for adjudication by a constitutionally-neutral tribunal [for a] jury trial."[32] FINRA rules do not provide for such referrals to federal court. FINRA rules also do not provide a mechanism for requesting that the SEC appoint an independent special counsel to adjudicate this matter or directing the SEC to conduct its own enforcement proceeding, which Respondent also seeks.

Finally, Respondent requests "certif[ion of] this recusal issue for immediate appellate review given its case-determinative nature."[33] FINRA rules do not provide for interlocutory review, except under limited circumstances not applicable here.[34]

III. Order

For the reasons stated above, Respondent's Recusal Motion is **DENIED**.

SO ORDERED.

Maureen A. Delaney
Chief Hearing Officer

Dated: May 6, 2026

Copies to:

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[32] Recusal Motion at 9.

[33] *Id.*

[34] *See* FINRA Rule 9148 ("Except as provided in Rule 9280, there shall be no interlocutory review of a ruling or order issued by any Adjudicator in a proceeding governed by the Code.").