



Hearing Procedure Script Special Proceeding

With the exception of the requirements for Special Proceedings, you may vary the hearing procedure in your discretion, provided all parties are allowed a full and fair opportunity to present their respective cases. The FINRA Dispute Resolution Services staff member, if present, or the Arbitrator will initiate the introduction.

This confirms that the hearing in this matter will be conducted as a Special Proceeding. The following hearing procedures will be followed:

- Claimants, collectively, and respondents, collectively, each have two hours to present their cases and one-half hour for rebuttal and closing statements;
- The hearing will be completed in one day with no more than two hearing sessions;
- The parties may not question or cross-examine an opposing parties' witnesses; and
- The parties may not call an opposing party as a witness.

As arbitrator, I will remain mindful of the above time limits. I will remain neutral, but given the absence of cross-examination, I may need to ask the parties questions during the hearing.

The claimant(s) will present an opening statement, followed by the respondent(s)' opening statement. The claimants will then present their case-in-chief, followed by the respondent(s)' case-in-chief. Any rebuttal would occur afterwards. I will then ask questions. The claimant(s) will present a closing statement, followed by the respondent(s)' closing statement.

Please note that this hearing is being digitally recorded and the recorder will always be on. Please be mindful of the recording during breaks. Remember to mute phones or speak away from the telephone.

A. Introduction of the Arbitrator

B. Restate to the parties any disclosures you previously made. Also, you should

make any additional disclosures to the parties at this time. In addition, you should confirm on the record that your current classification is either a public or a non-public arbitrator.

*[The following section is intended to be informational for the arbitrators and does not need to be read to the parties: Arbitrator disclosure is the cornerstone of FINRA arbitration, and the arbitrator's duty to disclose is continuous and imperative. Disclosure includes any relationship, experience and background information that may affect—or even appear to affect—the arbitrator's ability to be impartial and the parties' belief that the arbitrator will be able to render a fair decision. When making disclosures, arbitrators should consider all aspects of their professional and personal lives and disclose all ties between the arbitrator, the parties and the matter in dispute, no matter how remote they may seem. If you need to think about whether a disclosure is appropriate, then it is: **make the disclosure.**]*

- C. Elicit names of all persons in attendance and their relationship to the parties (e.g. husband, attorney for claimant, respondent's witness, etc.). Ask each party's counsel or representative whom FINRA should reflect in the award as counsel or representative for each party. **Make a note of each party's response and include it in the Award Information Sheet when you deliberate.**

Ask whether any of the parties and counsel to this matter know of any potential conflicts between the arbitrators and any party, counsel or witness in this matter.

- D. **Obtain oral confirmation from all of the parties or their representatives of their acceptance of the Panel's composition.**
- E. Oath of Arbitrator: **Make the following statement on the record: "I have submitted my properly executed Oath of Arbitrator to the FINRA Dispute Resolution Services staff."**

(Note: The following paragraphs are to be read on the record by the arbitrator)

- F. Formal Opening of Hearing: This controversy has been submitted to me for hearing in accordance with the Code of Arbitration Procedure. I am authorized to determine each of the matters set forth in the statements submitted and filed with FINRA Dispute Resolution Services. Unless the law directs otherwise, all awards rendered pursuant to the Code will be final and not subject to appeal.

It is suggested that no interruptions be made during an individual's testimony.

- G. The submission of this matter to arbitration will not preclude any of FINRA's rights that it would otherwise be authorized to adopt, administer or enforce. If any matter comes to my attention during and in connection my participation in this

proceeding, either from the record or from material or communications related to this proceeding, that I have reason to believe may constitute a violation of FINRA's rules or the federal securities laws, I may initiate a referral of the matter to FINRA for disciplinary investigation. If I make any such referral it will only be initiated after this dispute has been either settled or otherwise disposed of or after a final award has been rendered.

- H. Responsibility of Neutral Arbitrators: I have been selected to serve as a neutral arbitrator to hear and decide this matter. I am not a FINRA Dispute Resolution Services employee. I am an independent arbitrator. FINRA makes available this arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Pursuant to Canon I of the ABA/AAA Code of Ethics for Commercial Arbitrators, I, as a neutral arbitrator, have the duty of conducting these proceedings with fairness and integrity. This duty extends to all parties and to this process. Therefore, I respectfully request that all parties and their counsel or representatives refrain from engaging in any conversations or contact with me except during this hearing and in the presence of all parties, counsel or representatives. Thank you for your anticipated cooperation.

- I. Oath Administered To Witnesses

Do you solemnly swear or affirm that the testimony you are about to give shall be the truth the whole truth and nothing but the truth?

Will each of you please state your name, address, and if applicable, your business affiliation.

As a reminder, electronic devices cannot be used to record or broadcast the hearing.

- J. Arbitrator's Exhibit: I have read the papers that have been submitted by the parties. These papers, along with the executed Submission Agreements, will be marked and received into evidence as Arbitrator's Exhibit #1. I have a copy of the parties hearing exhibits that have been filed with FINRA.

[The Arbitrator should explain the contents of Arbitrators' Exhibit # 1.]

- K. Other important open matters may be addressed here.
- L. Party Evaluations: As part of FINRA Dispute Resolution Services' ongoing effort to improve the arbitration process, each party or representative is asked to voluntarily complete an evaluation concerning this arbitration. For your convenience, FINRA has made it possible for you to complete the Party

Experience Survey via the DR Portal.

- M. Opening Statements: Each party may make an opening statement. It should be limited to what the party intends to prove and should not be a presentation of evidence or of the merits of the case.
- N. Documentary Evidence: I will rule on any objections asserted and determine whether the document will be received in evidence.
- O. Expected Conduct: All participants are expected to act in a civil manner at all times. Parties and attorneys are requested to be on time for all sessions and to limit breaks to the time allotted. Parties are encouraged to avoid repetitive arguments. Parties and counsel must direct all objections and motions to me and not to each other. The digital recording will be the official record of the hearing.

Electronic Devices during the Hearing

The panel asks that everyone silence their cell phones or other electronic devices. This will help us to minimize distractions and focus on testimony. This does not apply to the use of electronic devices to view case documents. Electronic devices cannot be used to record or broadcast the hearing.

Note to Arbitrator: The administrative announcements have been completed and you will now begin opening statements and the presentation of the evidence. This is a reminder that all further conversations between the parties and the arbitrator should be on the record (e.g. digitally recorded).

- P. Opening Statements: The parties will now proceed with their opening statements, beginning with the Claimant. Does any party need a reminder about the time limits for Special Proceedings?
- Q. Presentation Of Evidence: The parties will now present their evidence, beginning with the Claimant.
- R. Inquiry Prior to Closing Argument: Do the parties have any further evidence or testimony to present?
- S. Closing Argument:

Claimants collectively and respondents, collectively, each have one-half hour for rebuttal and closing statements. The parties are directed to limit their closing argument to a summation of what he or she believes has been proven. The parties should include a summary of their final request for damages. Parties may

present their final damages as a range, as opposed to a specific monetary amount, and may include a description of each theory of damages.

The parties should also address the issue of hearing session fees. In the award, I will allocate the amount of hearing session fees that each party will pay. Therefore, the parties should include a statement of how I should assess the hearing session fees.

The parties may now begin their closing argument, beginning with the Claimant. Rebuttal is allowed and the Claimant may reserve its entire closing for rebuttal.

Note to Arbitrator: It is the practice in these proceedings to allow claimants to proceed first in closing argument, with rebuttal argument being permitted. Claimants may reserve their entire closing for rebuttal. With the exception of the requirements for Special Proceedings, an arbitrator may vary the hearing procedure in his or her discretion, provided all parties are allowed a full and fair opportunity to present their respective cases.

- T. Final Damage Requests: I realize that at the time the claim was initiated the parties may not have had all of the information needed to accurately or completely calculate their claims. Therefore, at this point, I ask that the parties restate their respective claims. For parties requesting damages, please provide me with a summary of your final request for damages. You may present your final damage request as a range, as opposed to a specific monetary amount.

Note to Arbitrator: If a party's final request for damages is different from the amount stated in its pleading, please record this amount in the Award Information Sheet item number 10.

- U. Inquiries Prior to Closing Hearing: Do the parties have any other issues or objections that you would like to raise that you have not previously raised?
- V. The decision will be forwarded to the parties, and/or counsel. In order to expedite its delivery, I may execute a handwritten copy of the Award.
- W. Party Evaluations: As I mentioned at the beginning of the case, I ask that each party or representative complete an evaluation of this arbitration. Your participation – while strictly voluntary – greatly assists FINRA Dispute Resolution Services' ongoing effort to improve the arbitration process. You can find the Party Experience Survey on the DR Portal
- Y. Closing the Hearing: The record will remain open until I arrive at a decision, or I determine that it is closed.

No party will contact me directly. All communications are to be directed to the staff person assigned to this case.

