

This order has been published by the NASDR Office of the Hearing Officers and should be cited as OHO Order 98-3 (C10970172).

**NASD REGULATION, INC.
OFFICE OF HEARING OFFICERS**

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| DEPARTMENT OF ENFORCEMENT, | : | |
| | : | |
| | : | |
| Complainant, | : | Disciplinary Proceeding |
| | : | No. C10970172 |
| v. | : | |
| | : | |
| | : | Hearing Officer - JN |
| | : | |
| | : | |
| Respondents. | : | |

ORDER DENYING RESPONDENT’S REQUEST FOR INDEFINITE POSTPONEMENT

By letter dated December 29, 1997, Respondent _____ requested “an indefinite postponement” of these proceedings pending disposition of “Federal charges of ‘securities frauds.’ ” The Hearing Officer treated this pro se filing as a motion. On January 5, 1998, the Department filed an Opposition to that Motion and a Cross-Motion seeking entry of a default against Respondent _____.

This Order deals solely with the requested postponement. The Cross-Motion will be addressed in a subsequent order.

Respondent _____ seeks “indefinite” postponement until the resolution of pending federal charges involving securities fraud. The request says nothing more than that. It presents no reason why Respondent cannot proceed with a defense to the present disciplinary charges. There is no information as to the relationship (if any) between the federal case and this disciplinary

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proceeding, or as to any alleged impact of that case upon Respondent's defense of the instant case. Moreover, as the Department notes, the request does not even hint at the time which would be necessary to resolve the federal charges.

Insofar as Respondent seeks an indefinite delay simply because he faces federal charges, the request lacks merit. The Department correctly argues (Opposition, p. 4) that protection of the investing public and the integrity of the securities industry often require prompt action that cannot await the outcome of grand jury investigations or criminal prosecutions. SEC v. Dresser Industries, Inc., 628 F.2d 1368, 1377 (D. C. Cir.) (en banc), cert. denied, 449 U.S. 993 (1980). As the National Business Conduct Committee stated in Market Surveillance Committee v. Wakefield Financial Corp., 1992 NASD Discip. LEXIS 124 at *36: the "Association's disciplinary and regulatory function coexists with other forums of redress, whether they be governmental or judicial, and the NASD's process does not stop when another entity's process begins."

An "indefinite" postponement of an NASD disciplinary proceeding would constitute

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extraordinary relief. Such action, if ever appropriate, must rest on far more than has been shown here. Respondent _____ request for indefinite postponement is denied.

SO ORDERED.

Jerome Nelson
Hearing Officer

Dated: Washington, DC
January 8, 1998