

This Order has been published by the NASDR Office of Hearing Officers and should be cited as OHO Order 00-04 (C05990026).

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

DEPARTMENT OF ENFORCEMENT,	:	
	:	
	:	
Complainant,	:	Disciplinary Proceeding
	:	No. C05990026
v.	:	
	:	
	:	Hearing Officer - JN
	:	
	:	
Respondents.	:	

ORDER REJECTING CONTESTED OFFER OF SETTLEMENT

The Hearing Panel hereby rejects Respondent _____ contested Offer of Settlement.

Review of the Offer, the Brief and supporting materials, and Enforcement’s Memorandum in Opposition shows that the parties are sharply divided over the extent of Mr. _____ culpability. Respondent argues that he was an innocent victim of wrongdoing by Respondents _____ and _____ (who allegedly concealed things from him) and that he alerted the firm’s outside auditors and took appropriate steps as soon as he became aware of net capital problems. Accordingly, any finding of liability for net capital violations would “result[] from _____ position as former President of ____, rather than from any direct act by _____.” (Offer of Settlement, p.2). Enforcement takes a different view of _____ involvement, arguing that he “was on notice of the net capital violations, did not address the situation and received benefits from the firm during the period of the violations” (Memorandum in Opposition, p. 6).

Resolving these differences requires a hearing, where the panelists can see and hear the witnesses, as they testify on direct and cross-examination and as they answer questions panelists

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may have. The instant dispute between the parties cannot be adjudicated on paper, by way of a contested settlement offer.

The hearing will begin as scheduled on April 24, 2000.

HEARING PANEL

Jerome Nelson
Hearing Officer

Dated: Washington, DC
March 1, 2000