



**This Order has been published by the NASDR Office of Hearing Officers and should be cited as OHO Order 00-16 (C3A990067).**

\_\_\_\_\_ argues that the charge should be dismissed because as the branch manager of \_\_\_\_\_ Houston office he was not \_\_\_\_\_'s direct supervisor. \_\_\_\_\_ argues that although \_\_\_\_\_ joined \_\_\_\_\_ as a registered representative, she shortly moved over to the corporate finance department, over which \_\_\_\_\_ had no authority. But, as both Parties correctly note, the determination of whether a person is a supervisor is dependent upon the specific facts and circumstances of the relationship. See In re John H. Gutfreund, Exchange Act Release No. 31544, 1992 SEC LEXIS 2939 (Dec. 3, 1992). These aspects of Respondent's Motion argue for rulings in his favor on such issues as his authority, responsibility, ability to affect \_\_\_\_\_'s conduct, \_\_\_\_\_'s supervisory structure, and management's expectations regarding \_\_\_\_\_'s supervision. As to these and other factual questions concerning \_\_\_\_\_'s activities, the record is not so clear as to enable the Hearing Panel to find that there is no genuine issue with regard to any material fact. To resolve these matters, the Panel needs to assess documentary evidence in light of the questioning of witnesses and to see and hear the witnesses, including \_\_\_\_\_ himself. Accordingly, Respondent \_\_\_\_\_' Motion for Summary Disposition is denied.

**HEARING PANEL.**

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By Andrew H. Perkins  
Hearing Officer

Dated: Washington, DC  
July 6, 2000