

This Order has been published by FINRA's Office of Hearing Officers and should be cited as OHO Order 07-32 (20060050165-01).

FINANCIAL INDUSTRY REGULATORY AUTHORITY¹
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT

Complainant,

v.

Respondent.

Disciplinary Proceeding
No. 20060050165-01

Hearing Officer – Sara Nelson Bloom

**ORDER ESTABLISHING PRE-HEARING AND HEARING SCHEDULE
AND PROCEDURES**

Pursuant to Code of Procedure Rule 9241, an Initial Pre-Hearing Conference (“Conference”) in this matter was held on July 27, 2007, wherein the parties agreed to an October 24-25, 2007, hearing in Minneapolis, MN. Based upon this hearing date, the pre-hearing schedule is as follows:

08/10/07	Deadline for the Department of Enforcement to make documents available for inspection and copying pursuant to Rule 9251
08/13/07	Deadline for filing motions relating to discovery, if any
08/20/07	Deadline for filing opposition to discovery motions
08/21/07	Deadline for filing motions for summary disposition
08/28/07	Deadline for filing oppositions to motions for summary disposition

¹ Effective July 30, 2007, the corporate successor to NASD is the Financial Industry Regulatory Authority (FINRA).

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09/04/07	Deadline for filing all other pre-hearing motions, including motions for telephone testimony and expert witnesses
09/11/07	Deadline for filing pre-hearing submissions, including witness and exhibits lists, copies of exhibits marked for identification, and pre-hearing briefs
09/27/07	Deadline for filing objections to motions for telephone testimony and expert witnesses
10/04/07	Deadline for filing stipulations
10/11/07	Deadline for filing objections to exhibits and witnesses
10/18/07	Final Pre-Hearing Conference, via telephone 2 p.m. Eastern
10/24/07- 10/25/07	Hearing in Minneapolis, MN

Pre-Hearing Procedures

The following pre-hearing procedures shall govern the conduct of this proceeding. If these procedures do not accommodate the specific circumstances of this case, either party may request a pre-hearing conference with the Hearing Officer.

The parties may request a settlement conference with the Hearing Officer assigned to this proceeding or with another Hearing Officer. To request a pre-hearing or settlement conference, contact Mary Santen, the Case Administrator assigned to this case. Her telephone number is 202-728-8164.

Filing and Service of Papers

Filings shall be sent to the attention of Mary Santen at the Office of Hearing Officers. Pursuant to NASD Rule 9135(a), filings shall be considered timely if they are *received* by the Office of Hearing Officers within the time limits set by NASD rules or by the Hearing Officer.

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The parties may serve and file papers by facsimile transmission if they also file and serve the papers at the same time by mail or overnight commercial courier, pursuant to NASD Procedural Rules 9134 and 9135. When service is made by facsimile transmission, the certificate of service shall state the telephone number to which the facsimile was sent.

Motions

Motions will generally be decided based on the written submissions and shall include a statement that the party filing the motion has attempted to resolve the issue with the other party prior to filing the motion. A party may request oral argument by including the request with the written motion. Responses to motions are due ten business days after service of the motion. A moving party wishing to file a reply shall file both a motion requesting leave to file a reply and the proposed reply within five day after service of the opposition.

Pre-Hearing Submissions

a) Witness Lists

The witness lists shall include the name and address of each prospective witness and a brief summary of his or her expected testimony.

b) Exhibit Lists

Each exhibit shall be listed by its identification number and include a brief description.

c) Exhibits

Exhibits shall be tabbed individually and be pre-marked for identification. Each exhibit must be labeled to identify the party offering the document and the exhibit number. (For example, Enforcement's exhibits shall be marked CX-1, page 1 of x, etc., and Respondent's exhibits will be marked RX-1, page 1 of x, etc.). Exhibits should be provided to the Office of Hearing Officers **double-sided and three-hole punched, if possible**. The parties should attempt

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to provide a completely legible copy of each exhibit but if unable to do so, the party shall label the document "best copy available." The parties shall exchange proposed exhibits *prior to* the filing deadline, and to the extent possible, submit joint exhibits. In any event, Respondents need not submit duplicate copies of any exhibit submitted by the Complainant.

d) Stipulations

The parties are expected to stipulate to relevant, undisputed facts, including authenticity, content and admissibility of proposed exhibits.

The Department of Enforcement should initiate the discussion regarding stipulations, and all parties are to cooperate fully. All stipulations shall be signed by the parties or their counsel and filed with the Office of Hearing Officers.

e) Pre-Hearing Briefs

Pre-Hearing Briefs shall include a narrative summary of each party's case or defense and a summary of the legal theories upon which each party will rely at hearing.

Presentation of Evidence Relevant to Liability and Sanctions

All evidence bearing on liability and sanctions must be presented at the hearing. Thus, the Department of Enforcement should be prepared to present at the hearing any evidence it wishes the Hearing Panel to consider in connection with the possible imposition of sanctions. Likewise, the Respondent should be prepared to present at the hearing any evidence of mitigating factors to be considered by the Hearing Panel, including any evidence in support of any claim of financial hardship that would prevent the payment of sanctions if a violation is found.

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The Hearing Officer's Case Administrator is Mary Santen (202-728-8164), and the parties may contact her for assistance.

SO ORDERED.

Sara Nelson Bloom
Hearing Officer

Dated: August 2, 2007