

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MEGURDITCH PATATIAN  
(CRD No. 4047060),

Respondent.

Disciplinary Proceeding  
No. 2018057235801

Hearing Officer–DDM

**ORDER GRANTING IN PART RESPONDENT'S MOTION FOR CONTINUANCE**

This case is scheduled for a two-week hearing, starting on December 6, 2021. At a recent Pre-Hearing Conference ("PHC"), Respondent Megurditch Patatian requested that the hearing be postponed until March 14-25, 2022. I ordered that Patatian file a written motion for a continuance ("Motion"), which FINRA's Department of Enforcement opposed.

Patatian's Motion is granted in part. The hearing is re-scheduled for January 18-31, 2022. I will issue a revised Case Management and Scheduling Order ("CMSO"), with pre-hearing deadlines consistent with the new hearing dates, along with this Order.

**A. Background**

Enforcement filed its Complaint on February 26, 2021. Enforcement alleged that Patatian made 81 unsuitable recommendations of non-traded real estate investment trusts (REITs) to 59 customers, four unsuitable recommendations about the surrender of variable annuities, and six unsuitable recommendations about the exchange of variable annuities. In connection with those recommendations, Enforcement asserts, Patatian overstated customer investment experience and financial data on account forms and client disclosure forms. Enforcement also alleges that Patatian impersonated a customer on a telephone call with an insurance company.

After two extensions of time, Patatian filed his Answer on May 7, 2021. In his Answer, Patatian admitted impersonating a customer. But he denied the other charges and asserted various affirmative defenses.

The parties jointly proposed a pre-hearing schedule, with the hearing scheduled for October 18 – 29, 2021. In May 2021, I issued a CMSO, largely adopting the parties' proposed

schedule, including the proposed hearing dates. Throughout this process, Patatian was represented by an experienced securities and litigation attorney.

There things stood until September 14, 2021. On that day, three days before the deadline for the parties to file pre-hearing submissions, Patatian's counsel filed a "Notice of Withdrawal of Counsel." As justification for his withdrawal from the case, Patatian's counsel cited "irreconcilable differences" with his client about "case strategy[.]" In the filing, counsel also wrote that "Patatian will be for the foreseeable future representing himself in a *pro se* manner." I treated the filing as a motion to withdraw as counsel under FINRA Rule 9142 and granted it that same day.

Two days later, I held another PHC. Patatian represented himself. During the PHC, Patatian said that he was "in dialogue with" another attorney and would know whether he would hire that attorney "today or tomorrow."<sup>1</sup> If he hired the attorney, Patatian added, he would "probably need another week or two" to bring that attorney "up to speed[.]"<sup>2</sup> Over Enforcement's objection, I continued the hearing for about seven weeks to December 6 – 17, 2021, after confirming that both parties were available on those dates. I also modified the pre-hearing schedule to conform with the new hearing dates. In the revised pre-hearing schedule, I included another PHC, for mid-October.

On October 1, 2021, two attorneys entered their appearances on behalf of Patatian. They made no other filings for Patatian. At the PHC on October 18, 2021, Patatian's attorneys requested a postponement of the hearing until March 2022. Enforcement opposed Patatian's request, and I ordered expedited briefing.

## **B. Discussion**

FINRA Rule 9222 governs requests to postpone a disciplinary hearing. "A hearing shall begin at the time and place ordered," the Rule states, "unless the Hearing Officer, for good cause shown, . . . postpones the commencement of the hearing . . ."<sup>3</sup> Any postponement "shall not exceed 28 days unless the Hearing Officer states on the record or provides by written order the reasons a longer period is necessary."<sup>4</sup> The primary purpose of the Rule is "to ensure prompt resolution of [FINRA's] disciplinary proceedings, which is necessary to enable [FINRA] to carry out its regulatory mandate and fulfill its responsibilities in protecting the public interest."<sup>5</sup>

<sup>1</sup> Transcript of September 16, 2021 Pre-Hearing Conference ("Tr.") 13.

<sup>2</sup> Tr. 13.

<sup>3</sup> FINRA Rule 9222(b).

<sup>4</sup> FINRA Rule 9222(b)(2).

<sup>5</sup> OHO Order 13-01 (200901910891) (Jan. 2, 2013), at 7, [https://www.finra.org/sites/default/files/OHODecision/p229434\\_0\\_0.pdf](https://www.finra.org/sites/default/files/OHODecision/p229434_0_0.pdf).

The Rule specifies five factors I must consider when deciding whether to grant a postponement: (1) the length of the proceeding to date; (2) the number of postponements, adjournments, or extensions already granted; (3) the stage of the proceedings at the time of the request; (4) potential harm to the investing public if an extension of time, adjournment, or postponement is granted; and (5) such other matters as justice may require. A Hearing Officer has broad discretion to determine whether to postpone a hearing.<sup>6</sup>

Four factors do not favor a postponement until March 2022. First, this proceeding has been pending since February 2021, and Patatian seeks to postpone it until over a year after Enforcement filed the Complaint. Second, I granted Patatian two extensions to file his Answer. I also extended the hearing dates by about seven weeks. Patatian now seeks another 14-week extension. Third, we are at a late stage in the proceeding, with deadlines for discovery and experts long past, and with prehearing submissions due in a few days. Fourth, the Complaint contains serious allegations, with many customers allegedly suffering harm. Patatian's attorneys argue that there is no potential harm to the investing public because Patatian is no longer working for a FINRA-member firm, and pledges not to do so while this case is pending.<sup>7</sup> But that is not the only consideration. While there is often more urgency when a respondent is working in the financial industry, an expeditious proceeding is important for customers who allegedly suffered harm and require recompense, as Enforcement claims here.<sup>8</sup>

That leaves "such other matters as justice may require." Patatian's attorneys point to prejudice that they claim Patatian would suffer without an extension. They assert that they received only a partial production of documents from Patatian's prior counsel.<sup>9</sup> They also assert that they first received around 27,800 more files on the evening of October 4, 2021, from Enforcement, and that they began reviewing them in a database on October 9, 2021.<sup>10</sup> According to Patatian's attorneys, it is "nearly impossible" for them to make a "reasonable assessment" of these documents, and "no time remains to interview customers," by the hearing date.<sup>11</sup> Enforcement points out that it provided Patatian's new attorneys with proposed joint exhibits and proposed stipulations shortly after they entered their appearances in this case.<sup>12</sup> Yet Patatian argues that he needs a chance to review the 27,800 additional files to identify proposed exhibits of his own.<sup>13</sup>

<sup>6</sup> *Dep't of Enforcement v. Meyers Assoc., L.P.*, No. 2013035533701, 2017 FINRA Discip. LEXIS 47, at \*39 (Bd. of Governors Dec. 22, 2017), *modified*, Exchange Act Release No. 86193, 2019 SEC LEXIS 1627 (June 24, 2019).

<sup>7</sup> Declaration of Jeffrey S. Kob ("Kob Decl.") ¶ 7.

<sup>8</sup> Dep't of Enforcement's Opposition to Respondent's Second Motion for Continuance ("Enf. Opp.") 6.

<sup>9</sup> Kob Decl. ¶ 2.

<sup>10</sup> Kob Decl. ¶ 2.

<sup>11</sup> Mot. 5.

<sup>12</sup> Enf. Opp. 5.

<sup>13</sup> Mot. 5.

After balancing these factors, I find that justice is served by giving Patatian a short extension of the hearing dates so that his attorneys have a meaningful opportunity to review the documents they recently obtained and prepare his defense for the hearing. But an extension of the hearing dates to March 2022 is too long. Postponing the hearing for another six weeks—to January 18, 2022<sup>14</sup>—provides Patatian's attorneys sufficient time to complete their review of the investigative file, interview potential witnesses, identify potential exhibits, and otherwise prepare a defense. Patatian's Motion is therefore **GRANTED IN PART**. A revised CMSO will be issued along with this Order.

**SO ORDERED.**



Daniel D. McClain  
Hearing Officer

Dated: October 29, 2021

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<sup>14</sup> At a PHC on October 27, 2021, both parties confirmed they are available for a hearing that started on this date.