

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RESPONDENT 1,

RESPONDENT 2,

and

RESPONDENT 3

Respondents.

Disciplinary Proceeding
No. 2011026386001

Hearing Officer—MC

**ORDER APPOINTING REPLACEMENT HEARING OFFICER, AMENDING
CAPTION, AND SETTING HEARING DATES**

FINRA's Department of Enforcement filed the Complaint in this disciplinary proceeding on August 12, 2014. It alleges that Respondent 1 engaged in sales of unregistered securities in violation of FINRA Rules, and that Respondent 1, Respondent 2, and Respondent 3 maintained inadequate supervisory procedures, failed to supervise, and failed to implement an adequate anti-money laundering program. On October 9, 2014, Respondents filed an Answer in which they denied allegations of wrongdoing.

On November 12, 2014, Hearing Officer Carloni held the Initial Pre-Hearing Conference, during which the parties discussed scheduling issues. Enforcement requested that the case be set for hearing in April 2015, or as soon thereafter as possible given the schedules of Respondents, their counsel, and the anticipated witnesses. Respondents' counsel reported that he is unavailable to have the hearing in April and May, and Hearing Officer Carloni advised the parties that she

This Order has been published by FINRA's Office of Hearing Officers and should be cited as OHO Order 14-08 (2011026386001).

did not have available time on her docket to schedule the case for hearing in June or July.

Hearing Officer Carloni then requested the parties to submit alternative proposed hearing dates.

Thereafter, the parties advised Hearing Officer Carloni that they were available in August. However, Hearing Officer Carloni is not available in August, and she has scheduling conflicts that prevent her scheduling the case until late October or November 2015.

On November 21, 2014, Enforcement filed a motion to have a new Hearing Officer appointed because it did not want the hearing postponed until late October. Enforcement points out that such a hearing date would be 14 months after it filed the Complaint.

Respondents oppose the motion. Generally, Respondents complain that the motion is improper¹ and that the additional delay if the case is heard in October is quite brief when considered in light of the procedural history of this proceeding. Respondents also point out that Hearing Officer Carloni has under consideration a number of procedural motions. These motions are now decided however.

Discussion

Hearing Officers are assigned to cases in rotation so far as practicable.² And the Office of Hearing Officers does not reassign cases at the parties' requests. No party to a proceeding is entitled to a Hearing Officer of their choosing. Here, however, Hearing Officer Carloni must be replaced because her case load does not permit her to schedule this case for hearing as promptly as the circumstances of the case require. Given her other commitments, it is unlikely that she would be able to begin the hearing before November 2015. Moreover, Respondents have not demonstrated any undue prejudice that will result if the case is reassigned to another hearing

¹ Respondents incorrectly argue that a hearing officer may only be replaced for cause pursuant to FINRA Rule 9146(f).

² FINRA's Office of Hearing Officers generally employs the same standard set forth for the appointment of administrative law judges under 5 U.S. Code § 3105.

This Order has been published by FINRA's Office of Hearing Officers and should be cited as OHO Order 14-08 (2011026386001).

officer. Accordingly, another Hearing Officer will be assigned to replace Hearing Officer Carloni.

Order

Hearing Officer Matthew Campbell is assigned to replace Hearing Officer Carloni. All filings submitted after this date shall reflect MC as the Hearing Officer in the case caption and shall be filed with the Office of Hearing Officers, to the attention of Case Administrator Tonya Howe, who can be reached at (202) 728-8349 or tonya.howe@finra.org.

The hearing is set for August 4-14, 2015.

IT IS SO ORDERED.

Andrew H. Perkins
Chief Hearing Officer

Date: December 10, 2014