

This Order has been published by FINRA's Office of Hearing Officers and should be cited as OHO Order 07-34 (CAF040079).

**FINANCIAL INDUSTRY REGULATORY AUTHORITY¹
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Respondent.

Disciplinary Proceeding
No. CAF040079

Hearing Officer – DRP

ORDER REGARDING POST-HEARING BRIEFS

The parties shall file and serve post-hearing briefs in accordance with the following guidelines and schedule.

Content

Post-hearing briefs shall include proposed findings of fact and conclusions of law. The parties should discuss the following issues in their proposed findings of fact: Respondent's business, including its supervisory structure and written procedures, with a focus on the fixed income department; trading in _____ bonds by Respondent's corporate bond trader; news involving _____; solicitation of customers who purchased _____ bonds recommended by Respondent's financial advisors; and _____'s bankruptcy and aftermath.

The parties are encouraged to organize proposed findings of fact regarding the 92 customers at issue as follows: (1) customers who testified at the hearing whose financial advisor also testified at the hearing; (2) customers who testified whose financial advisor supplied a sworn

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

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declaration but did not testify; (3) customers who testified whose financial advisor neither testified nor submitted a sworn declaration; (4) customers who did not testify at the hearing whose financial advisor testified at the hearing; (5) customers who did not testify whose financial advisor supplied a sworn declaration but did not testify; and (6) customers who did not testify whose financial advisor neither testified nor submitted a sworn declaration.

All proposed findings of fact shall be supported by citations to the record. Enforcement's exhibits shall be cited as CX, while Respondent's exhibits shall be cited as RX. Citations to the hearing transcript shall be cited as Tr., followed by the appropriate page number(s).

Proposed conclusions of law shall address all four counts charged in the Complaint.²

Format and Page Limits

Briefs shall be double-spaced in 12-point type, with all margins at least 1 inch wide, and be paginated at the bottom of each page. Footnotes shall be single-spaced in 11-point type. Each brief shall not exceed 125 pages in length excluding cover sheet, table of contents and table of authorities. Lengthy string cites (more than two citations) are strongly discouraged. No exhibits or other attachments to the brief shall be permitted.

Schedule and Procedure for Filing

An original and three copies of each party's brief shall be filed with the Office of Hearing Officers on or before October 8, 2007, and shall be accompanied by a certificate of service. The parties shall file briefs by hand-delivery and send a copy by email in Microsoft Word format to Deirdre Feehan at *Deirdre.Feehan@finra.org*.

² In structuring proposed findings of fact and conclusions of law, the parties may find it helpful to consult hearing panel decisions authored by the Hearing Officer. *See, e.g., Dep't of Enforcement v. Gonchar and Polyviou*, No. CAF040058, 2006 NASD Discip. LEXIS 46 (OHO Oct. 26, 2006).

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The parties are also strongly encouraged to simultaneously file electronic briefs, with hyperlinks to the document, testimony or case law cited therein, as described in the Department of Enforcement's Proposal Regarding Post-Hearing Submissions dated July 2, 2007.

SO ORDERED.

Dana R. Pisanelli
Hearing Officer

Dated: August 7, 2007
Washington, DC