

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL RYAN PETRUSKA
(CRD No. 4907900),

Respondent.

Disciplinary Proceeding
No. 2022076149301

Hearing Officer—MJD

**ORDER GRANTING, IN PART, AND DENYING, IN PART, ENFORCEMENT'S
MOTION FOR REMOTE VIDEOCONFERENCE TESTIMONY**

The hearing in this disciplinary proceeding is scheduled to take place in Boston, Massachusetts, on September 24 and 25, 2024. The Complaint's one cause of action alleges that Respondent Michael Ryan Petruska willfully failed to amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose that he had been charged with a felony, in violation of Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.

I. Discussion

On September 6, 2024, the Department of Enforcement filed a motion to permit remote testimony by videoconference or telephone from two of its witnesses ("Motion")—(i) its investigator, Edward Quinn, and (ii) an employee in Equitable Advisors LLC's Human Resources Department, Jackie Fechtmann. Enforcement states that Petruska does not oppose the Motion.

A. Edward Quinn

Quinn, a FINRA employee, lives in Pennsylvania. Enforcement states that he is expected to testify about the investigation that led to the filing of the Complaint. It estimates that Quinn's testimony will take less than 30 minutes, assuming that his testimony is needed.¹ According to Enforcement, if the parties can agree on additional stipulations, it is less likely that Quinn will

¹ Department of Enforcement's Unopposed Motion to Permit Testimony by Videoconference or Telephone of Two Enforcement Witness ("Mot.") (Sept. 6, 2024) 2.

need to testify.² Because of the limited scope of Quinn's testimony and the possibility he may not have to testify, Enforcement argues that requiring him to travel from Pennsylvania to testify in person is "inefficient and impracticable."³

Quinn is a FINRA employee and Enforcement's sole investigative witness. Even though leave to present videoconference or telephone testimony is commonly granted, I find that, as a FINRA employee, it is appropriate in this case that Quinn attend the hearing in person regardless of the anticipated length and the subject matter of his testimony. Quinn is not so distant from Boston that it is inconvenient or costly for him to travel there. He could make a day trip, without staying overnight, if necessary.

Accordingly, I **DENY** Enforcement's Motion as to Quinn.

B. Jackie Fechtmann

Enforcement states that Fechtmann's testimony will be limited to her communications with Respondent that took place in August 2022 about his recent criminal matter. Because Fechtmann resides in North Carolina, the Motion argues that requiring her to travel to Boston is unwarranted given the narrow scope of her anticipated testimony.⁴

I find that it is reasonable to permit Fechtmann to testify via videoconference, as Enforcement proposes, even though as an associated person she could be compelled to attend the hearing in person. Remote testimony is an accepted practice in FINRA disciplinary proceedings. While hearing panels and parties would prefer to have witnesses testify in person, telephone testimony—including testimony by videoconference—is often necessary.⁵ FINRA's use of telephone testimony in disciplinary proceedings is widely accepted by the Securities and Exchange Commission.⁶

Therefore, based on Enforcement's representations concerning Fechtmann and given that the record does not reflect that Petruska would suffer any prejudice, I find that good cause exists for permitting her to testify by videoconference at the hearing. Her anticipated testimony will be brief and limited in nature.

² Mot. 2 n.1.

³ Mot. 2.

⁴ *Id.*

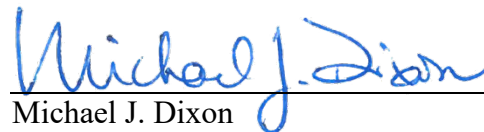
⁵ See *Dep't of Enforcement v. Brigandi*, No. C10040025, 2007 NASD Discip. LEXIS 3, at *24 n.20 (NAC Jan. 17, 2007) (citing *Daniel Joseph Alderman*, Exchange Act Release No. 35997, 1995 SEC LEXIS 1823, at *4-6 (July 20, 1995), *aff'd*, 104 F.3d 285, 288 n.4 (9th Cir. 1997)).

⁶ *Ronald W. Gibbs*, Exchange Act Release No. 35998, 1995 SEC LEXIS 1824, at *15-17 (July 20, 1995) ("[T]elephonic testimony frequently is used in [FINRA] disciplinary proceedings, and neither the Commission nor the courts have found the use of such testimony to be unfair.").

Accordingly, I **GRANT** Enforcement's motion as to Fechtmann, subject to the following conditions:

1. By September 17, 2024, Enforcement shall file with the Office of Hearing Officers, and have available at the hearing, an affidavit or sworn declaration signed by Fechtmann attesting that her testimony at the hearing will be truthful.
2. Enforcement shall ensure that at the time that Fechtmann is called to testify she has copies of all exhibits that relate to her testimony, including exhibits for possible cross-examination by Respondent.
3. Enforcement shall ensure that Fechtmann will be available by videoconference or telephone during a block of time when it is reasonable to expect that she will be called to testify so that the hearing is not disrupted if the testimony of prior witnesses is longer or shorter in duration than anticipated.

SO ORDERED.



Michael J. Dixon
Hearing Officer

Dated: September 10, 2024

Copies to:

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