

This Order has been published by FINRA's Office of Hearing Officers and should be cited as OHO Order 16-25 (2013038986001).

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

DEPARTMENT OF ENFORCEMENT

Complainant,

v.

RICHARD A. RIEMER, JR.
(CRD No. 1721245),

Respondent.

Disciplinary Proceeding
No. 2013038986001

Hearing Officer—MJD

ORDER DENYING RESPONDENT'S MOTION TO CONTINUE HEARING

On September 1, 2016, Respondent Richard A. Riemer, Jr., filed a motion to continue the hearing for two months, pursuant to FINRA Rule 9222. A two-day hearing is scheduled to begin on September 27, 2016. As grounds, Respondent states that he "does not presently have funds available for the legal fees associated with the hearing." He says that he "believe[s] he will have available funds within two months."

On September 6, 2016, the Department of Enforcement filed its opposition to Respondent's motion.

On March 24, 2016, Enforcement filed a Complaint alleging that Respondent willfully failed to timely amend his Form U4 ("Uniform Application for Securities Industry Registration or Transfer Form") to disclose two federal tax liens and a bankruptcy petition under Chapter 13, in violation of Article V, Section 2(c) of FINRA's By-Laws, NASD Rules IM-1000-1 and 2110, and FINRA Rules 1122 and 2010. Cause two alleges that Respondent violated NASD Rule 2110 by falsely telling his firm in four annual compliance certifications that he had no unsatisfied liens or judgments and had not filed a bankruptcy petition.

Discussion

FINRA Rule 9222 governs extensions of time in disciplinary hearings. Rule 9222(b) provides that a hearing "shall begin" at the time ordered unless the Hearing Officer, "for good cause shown," postpones its commencement "for a reasonable period of time." Rule 9222(b)(2) provides that postponements of time shall not exceed 28 days unless the Hearing Officer provides reasons a longer period is necessary. Rule 9222(b)(1) sets forth five factors that a Hearing Officer "shall consider" in determining whether to postpone a hearing: (i) the length of the proceeding to date; (ii) the number of postponements or extensions already granted; (iii) the stage of the proceedings at the time of the request; (iv) potential harm to the investing public if a postponement is granted; and (v) such other matters as justice may require. "[T]he rule primarily

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is intended 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.”¹

Respondent argues that applying the factors in Rule 9222(b)(1) weighs in favor of a postponement. He notes that the proceeding has been pending less than six months, this is the first request for a postponement, and, because Respondent is no longer in the securities industry, there is no risk of harm to the investing public. Finally, Respondent states that he would be prejudiced if the relief he seeks is not granted because he would have to appear at the hearing *pro se*.

Enforcement objects to a two-month continuance primarily on the grounds that Respondent has not substantiated his claim of an improved future financial situation, the parties have made all their pre-hearing filings, and the hearing will be brief.

Applying the standards set forth in Rule 9222, I find that Respondent has not shown good cause for a two-month continuance. Respondent states that he does not currently have the money to pay anticipated legal fees. There is, however, no guarantee that he will have the money two months from now if the continuance is granted. Respondent says only that he “believes” he will have the funds. He does not explain why his circumstances could change in two months. Nor does Respondent explain why counsel cannot wait two months to be paid for his services.

Respondent has been aware of the pre-hearing schedule and hearing dates for four months. On May 4, 2016, this case was scheduled for a two-day hearing on September 27, 2016. The proceedings are at an advanced stage. On August 23, 2016, the parties exchanged their pre-hearing briefs and filed their joint exhibits, witness list, and proposed stipulations. The deadline for objections to pre-hearing filings has passed without either party filing an objection. Attorney, witness, and panelist schedules have been set with the expectation that the hearing will begin September 27, 2016.

Additional factors argue against a two-month continuance of the hearing. This is not a complex matter requiring the expenditure of considerable additional time by counsel. The legal issues are straightforward. Although there have been no previous continuances, and regardless of whether Respondent is currently in the securities industry and presenting a threat to the investing public, the intent of Rule 9222 is served, and the public is protected, by the prompt resolution of disciplinary proceedings.

¹ OHO Order 97-13 (C05970037) (Dec. 15, 1997), at 3, http://www.finra.org/sites/default/files/OHODecision/p007835_0_0.pdf.

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Upon careful consideration of the Respondent's arguments, and weighing the factors set forth in Rule 9222, I conclude that he has failed to show good cause for a two-month continuance of the hearing (or a continuance of any length). Accordingly, Respondent's motion is **DENIED**.

SO ORDERED.

Michael J. Dixon
Hearing Officer

Dated: September 7, 2016