

**NASD REGULATION, INC.
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,	:	
	:	
Complainant,	:	Disciplinary Proceeding
	:	No. CAF970011
v.	:	
	:	Hearing Officer—AHP
	:	
Respondents.	:	

**ORDER GRANTING DEPARTMENT OF ENFORCEMENT'S MOTION TO
AMEND THE COMPLAINT**

On January 8, 1998, the Department of Enforcement filed a motion to amend the Complaint. The Respondents oppose the requested amendment on the grounds that the Department of Enforcement has not justified the need for the amendment and some of the Respondents' anticipated defenses would be eliminated if the amendment is allowed. These objections are not sufficient to deny the motion.

Rule 9212(b) of the Code of Procedure governs amendments to complaints. Under Rule 9212(b), an amendment to a complaint should be granted unless the respondent demonstrates "unfair prejudice." In the present proceeding, the Respondents have not yet answered; therefore they will not be prejudiced by the proposed amendment. The fact that they will no longer need to raise defenses to allegations that have either been deleted or corrected is not prejudicial. By correcting the Complaint, the Department of Enforcement relieves the Respondents from the burden of responding to inaccurate allegations. The

This order has been published by the NASDR Office of the Hearing Officers and should be cited as OHO Order 98-12 (CAF970011).

interests of the public and the Parties would not be promoted by locking the Department of Enforcement into allegations that it acknowledges are inaccurate just so that the Respondents can complain about their inaccuracy. This would not only be an absurd result, but it would cause needless delay and cost. Accordingly, the Department of Enforcement's motion for leave to amend the Complaint is granted. And it is further ordered that the Department of Enforcement shall serve and file the Amended Complaint forthwith. Since Respondents' counsel filed a Notice of Appearance on behalf of all of the Respondents, the Amended Complaint may be served on counsel pursuant to Code of Procedure Rule 9133(d). In accordance with Code of Procedure Rule 9212(b), the Respondents shall have 14 days from the date of service of the Amended Complaint to file their answers.

As a result of this Order, Respondents' Motion for Reconsideration of January 12, 1998 Order Extending Respondents' Time to Answer is denied as moot.

Andrew H. Perkins
Hearing Officer

Dated: Washington, DC
January 27, 1998