

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

CANTONE RESEARCH INC.
(CRD No. 26314),

ANTHONY J. CANTONE
(CRD No. 1066139),

and

RAYMOND J. DEROBPIO
(CRD No. 1092310),

Respondents.

Disciplinary Proceeding
No. 2017055886402

Hearing Officer–LOM

**ORDER REGARDING CANTONE RESPONDENTS'
MOTION FOR CLARIFICATION**

The Complaint in this case was filed on October 26, 2021, and ordinarily the hearing would have been long over by now. But the hearing has been delayed three times: once because one of the individual Respondents, Anthony J. Cantone, suffered a stroke in late June 2022; once because the first attorney for the other individual Respondent, Raymond J. DeRobbio, had to be replaced because the attorney was suspended from the practice of law and not qualified to represent DeRobbio; and then, more recently, I granted Cantone and the Respondent firm, Cantone Research Inc. (collectively, the “Cantone Respondents”) a third continuance to obtain a more complete record as to Cantone’s medical status and work activities.

My purpose in granting the third continuance is to determine the best way forward to resolve this case. I want to ensure that I am fully informed and can schedule a hearing subject to appropriately crafted procedures.

I issued an Order on March 1, 2023, granting Enforcement leave to issue Rule 8210 requests to gather documents and information related to Cantone’s work activities. That Order also required Cantone to file and serve a more detailed doctor’s report on his current medical status and prognosis. In particular, the Order required that the doctor’s report specify what, if

any, accommodations Cantone may need to participate in a FINRA hearing and what, if any, restrictions have been placed on his activities.

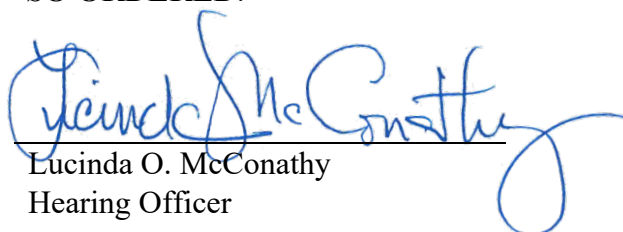
The Department of Enforcement promptly served the Cantone Respondents with a Rule 8210 request. The Cantone Respondents then filed a motion for clarification. But that motion is more in the way of an objection. The Cantone Respondents object to the item designated Request No. 9, which seeks “copies of all written or electronic communications to, from, or copying Cantone.” They object to Request No. 9 to the extent that it seeks discovery of communications between Cantone and his attorneys in this proceeding about the case. They ask that I “clarify” that Enforcement’s leave to take discovery does not include the “Respondents’ communications with their counsel as they prepared for trial in this case.”

Enforcement has said in opposition to the motion for clarification that it does not seek the substance of any privileged communications. Rather, it seeks a privilege log that would reflect the extent and frequency of Cantone’s communications with others. It argues that the information sought bears directly on Cantone’s ability “both to work and to prepare for and participate in the hearing in this case.” According to Enforcement, it offered to provide the Cantone Respondents with additional time to prepare and produce a privilege log.

While the extent and frequency of Cantone’s communications with counsel in this case could be relevant to evaluating Cantone’s ability to participate in his defense at a hearing, Enforcement’s offer of additional time to prepare a privilege log implicitly recognizes that preparing such a log would take time. The other information sought by Enforcement’s Rule 8210 request concerning Cantone’s work activities and the doctor’s report on Cantone’s current medical status and prognosis may be sufficient for purposes of scheduling and planning for the hearing. And that information may be obtained more quickly. The Cantone respondents have not objected to preparing or producing the other information sought by the Rule 8210 request. Nor have they asked for extra time to do so.

It advances the goal of resolving the issues in this matter without further delay to focus on the other information more immediately available and more directly concerning Cantone’s work activities and medical status. At this juncture, I will not require the Cantone Respondents to prepare and produce a privilege log of communications “to, from or copying” Cantone and relating to counsel’s trial preparations in this case.

SO ORDERED.


Lucinda O. McConathy
Hearing Officer

Dated: March 13, 2023

Copies to:

Heidi E. VonderHeide, Esq. (via email)
Alan Wolper, Esq. (via email)
Robert I. Rabinowitz, Esq. (via email)
Samantha Lesser, Esq. (via email)
Brody Weichbrodt, Esq. (via email)
Noel C. Downey, Esq. (via email)
Kevin Hartzell, Esq. (via email)
Mark Fernandez, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)