



**“DEFENDING NASD ENFORCEMENT ACTIONS”**  
**MCLE PRESENTATION OUTLINE**  
**MICHAEL A. THURMAN AND DANIEL G. MURPHY**  
**LOEB & LOEB LLP**

- I. Avoiding an Enforcement Action in the First Place**
  - a. Stages of an NASD Investigation**
    - i. Cooperation Issues**
    - ii. Settlement/Negotiation Opportunities**
    - iii. Enforcement Decision-Making Process**
      - 1. Role of Investigator**
      - 2. Role of Enforcement Attorney**
- II. Stages of an NASD Enforcement Action**
  - a. “Wells Notice” – Request for Submission/Pros & Cons**
  - b. Complaint**
  - c. Designation of Hearing Officer and Panel Members**
  - d. Responses to Complaint**
  - e. Prehearing Conference**
  - f. Discovery**
  - g. Motion Practice**
  - h. Hearing**
  - i. Appeals**
- III. Offer of Settlement Process**

**IV. Other Important Issues**

- a. Preservation and Production of Documents**
- b. Representation of Employees/Conflict of Interest/Warnings**
- c. Multiple Agency Investigations**
- d. Cooperation**
- e. Sanction Guidelines**
- f. Reporting Obligations (NASD/Sarbanes-Oxley)**