

This order has been published by the NASDR Office of the Hearing Officers and should be cited as OHO Order 97-11 (C10970128).

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

DEPARTMENT OF ENFORCEMENT,	:	
	:	
	:	
Complainant,	:	Disciplinary Proceeding
	:	No. C10970128
v.	:	
	:	
	:	Hearing Officer - GAC
	:	
Respondent	:	
	:	

**ORDER REGARDING DEPARTMENT OF ENFORCEMENT'S
CONTACT WITH RESPONDENT'S COUNSEL**

On November 14, 1997, the Department of Enforcement filed a Motion for Entry of Default Decision ("Motion") and attached an Affidavit Supporting a Motion for Entry of Default Decision ("Affidavit").

The exhibits attached to the Affidavit reveal that during the underlying investigation, the Respondent was represented by counsel, _____. A further review reveals that during the investigation, _____ was not copied on certain correspondence relating to the rescheduling of the investigative interview after he appeared as counsel on behalf of the Respondent. In addition, _____ was not copied on the Notice of Complaint, Second Notice of Complaint, or Motion. There is no explanation in the supporting affidavit to explain why counsel on behalf of the Respondent was not copied on correspondence during the investigation or upon filing of the Complaint.

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In order to ensure that a decision by default is not improperly issued, the Department of Enforcement is hereby directed to contact _____, and determine whether he continues to represent the Respondent with respect to this matter. If _____ does represent the Respondent, then the Department of Enforcement is directed to provide to _____ forthwith a copy of the documents it has filed to date with the Office of Hearing Officers. The Department of Enforcement is further directed to file an affidavit with the Office of Hearing Officers setting forth a description of its contact with _____ in connection with this paragraph of this Order. The Department of Enforcement may also file supplementary material to its Motion for Entry of Default Decision as it relates to its contacts with _____ during the course of the investigation. That affidavit and any other supporting material is to be filed with the Office of Hearing Officers by December 16, 1997.

SO ORDERED.

Gary A. Carleton
Hearing Officer

Dated: Washington, DC
December 9, 1997