

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SHADI TAYSIR BARAKAT
(CRD No. 5031281),

Respondent.

Disciplinary Proceeding
No. 2018056490315

Hearing Officer–BDC

**ORDER DENYING ENFORCEMENT’S MOTION TO STRIKE
RESPONDENT’S ANSWER AND DENYING ENFORCEMENT’S
MOTION FOR ENTRY OF A DEFAULT DECISION**

On January 14, 2025, the Department of Enforcement filed a motion to strike Respondent’s answer and for a ruling on Enforcement’s motion for entry of a default decision (“January 14 Motion”). Respondent filed an email opposition to the January 14 Motion on the same day. For the reasons set forth below, Enforcement’s January 14 Motion and its motion for a default decision are denied.

I. Background

The Department of Enforcement filed a Complaint against Respondent Shadi Taysir Barakat (“Barakat”) on September 9, 2024, alleging that he violated FINRA Rules 8210 and 2010 by failing to provide on-the-record testimony that FINRA requested in connection with an investigation of Barakat. According to the First Notice of Complaint, Enforcement served the Complaint by sending it via certified mail, return receipt requested, FedEx, and first-class mail to Barakat’s CRD Address and an address in Florida where Barakat was believed to reside (“the Florida Address”).¹ Barakat failed to file an answer by the October 7, 2024 deadline.

On October 15, 2024, Enforcement served Barakat with the Second Notice of Complaint by sending it via certified mail, return receipt requested, FedEx, and first-class mail to the CRD Address and the Florida Address. Again, Barakat failed to file an answer by the November 1, 2024 deadline. As a result, I issued an Order to the parties on November 8, 2024 directing Enforcement to file a motion for entry of a default decision.

¹ Barakat confirmed with the Office of Hearing Officers that the Florida Address is his current residential address.

On November 18, 2024, Barakat contacted the Office of Hearing Officers and left a voicemail with the Case Administrator assigned to the case indicating that he was interested in participating in this proceeding. That same day, the Case Administrator attempted to reach Barakat at the number he provided but he did not answer.

Enforcement filed its motion for entry of a default decision (“Default Motion”) on December 9, 2024. The next day, December 10, 2024, the Case Administrator spoke with Barakat and advised him that Enforcement had filed a Complaint against him and also filed a Default Motion because Barakat did not answer the Complaint. During the call, Barakat again expressed an interest in participating in this proceeding. On December 11, 2024, based on Barakat’s representations, I issued an order deferring ruling on Enforcement’s Default Motion and establishing a deadline of December 27, 2024 for Barakat to file a motion for leave to file a late answer, along with his answer. Barakat contacted the Office of Hearing Officers on December 16, 2024, and left a voicemail with the Case Administrator assigned to the case stating he needed additional guidance regarding what he needed to file.

Accordingly, I conducted a pre-hearing conference with the parties on December 19, 2024 to address Barakat’s questions. At that pre-hearing conference, I advised Barakat of the status of this proceeding and the deadline of December 27, 2024 to file a motion for leave to file a late answer to the Complaint, along with his answer. Barakat stated that he would need until the first week in January to obtain counsel to file the motion and answer since he was not sure what to file. I instructed Barakat that he would need to file a motion for an extension of the December 27, 2024 deadline. Barakat asked if he could make the request for an extension of time by email. I informed him that FINRA has specific rules that must be followed and he cannot submit an email in lieu of a pleading, and directed him to additional resources on the FINRA website, including sample pleadings.

On December 23, 2024, Barakat sent an email message to the Case Administrator, copying Enforcement, to request an extension of time “to seek advice of counsel prior to engaging in any motions or legal proceedings” While Barakat’s motion did not conform to the requirements set forth in FINRA’s Code of Procedure, I nevertheless treated his submission as a motion for an extension of time to file his motion for leave to file a late answer to the Complaint. On December 26, 2024, I granted Barakat’s motion and directed him to file the motion for leave to file a late answer and his answer to the Complaint by January 10, 2025 (“December 26 Order”).

On January 9, 2025, Barakat sent an email to the Case Administrator for this case and copied Enforcement. As discussed below, while not compliant with FINRA rules, the email appears to address the Complaint and includes the types of information respondents generally include in an answer.

II. Discussion

A. Enforcement's Motion to Strike Respondent's Answer

FINRA Rule 9215(b) provides, in relevant part, that “[u]nless otherwise ordered by the Hearing Officer, an answer shall specifically admit, deny, or state that the Respondent does not have and is unable to obtain sufficient information to admit or deny, each allegation in the complaint.” In its January 14 Motion, Enforcement argues that Barakat failed to comply with FINRA Rule 9215(b) because he failed to address the first 12 paragraphs in the Complaint. Enforcement further contends that his response to paragraphs 15 through 25 is ambiguous. As a result, Enforcement moves to strike Barakat’s email answer.

FINRA Rule 9136 provides that “[a]ny scandalous or impertinent matter contained in any brief, pleading, or other filing . . . may be stricken on order of an Adjudicator.”² I do not find Respondent’s answer, although lacking in formality, to include scandalous or impertinent matter. Furthermore, “[m]otions to strike are disfavored in this forum and generally should not be granted unless the matter to be stricken clearly could have no possible bearing on the subject of the litigation.”³ Particularly in cases such as this one, involving *pro se* respondents, the sufficiency of a respondent’s answer and how best to cure any deficiencies are matters better addressed at the Initial Pre-Hearing Conference. Here, it is apparent from the face of Barakat’s email that it does not comply fully with Rule 9215(b) because it does not specifically respond to each numbered paragraph in the Complaint and therefore lacks sufficient detail to fully enable Enforcement and the Hearing Panel to determine all the issues in controversy. But Barakat’s email generally denies the allegations in the Complaint and therefore I accept it as the answer. The deficiencies with the answer will be addressed with the Respondent at the Initial Pre-Hearing Conference. For example, I will require Respondent to orally answer the first 12 paragraphs in the Complaint at the Initial Pre-Hearing Conference.

Accordingly, Enforcement’s motion to strike Respondent’s answer is **DENIED**.

B. Enforcement's Request for the Hearing Officer to Rule on Enforcement's Default Motion

Enforcement argues in its January 14 Motion that the Hearing Officer should rule on its Default Motion because Barakat did not file a proper motion for leave to file a late answer setting forth good cause why Barakat should be permitted to file a late answer.

While it is true that Barakat’s email answer does not include a separate, formal motion as required by my December 26 Order, and does not expressly allege that good cause exists to

² FINRA Rule 9136(e); *accord* OHO Order 22-11 (2019063633301) (June 3, 2022), at 4, <https://www.finra.org/sites/default/files/2022-08/22-11-Order-Granting-in-Part-and-Denying-in-Part-Enforcements-Motion-to-Strike-Respondents-Affirmative-Defenses.pdf>.

³ OHO Order 18-05 (2014041860801) (Jan. 10, 2018), at 5, https://www.finra.org/sites/default/files/OHO_Order_18-05_2014041860801.pdf.

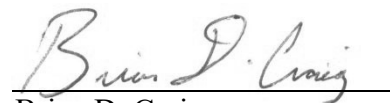
allow the late answer, Barakat addresses in his email why he did not file a timely answer. He contends that he never received any documents from Enforcement, including the Notices of Complaint, and only learned of this proceeding in November 2024, after he received “correspondence” from the Office of Hearing Officers and subsequently spoke with the Case Administrator for this matter.⁴ Based on that representation, I deem that Respondent has demonstrated good cause for filing his answer late. Simply because he did not also file a separate motion along with his answer is not sufficient grounds to find Barakat in default.

Accordingly, because I am accepting Barakat’s January 9, 2025 email as his answer, Enforcement’s Default Motion is **DENIED**.

III. Order

For the reasons set forth above, Enforcement’s January 14 Motion and its Default Motion are **DENIED**.

SO ORDERED.



Brian D. Craig
Hearing Officer

Dated: January 17, 2025

Copies to:

Shadi Taysir Barakat (via email)
Vaishali Shetty, Esq. (via email)
Adam Balin, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)

⁴ Given the timing, the “correspondence” referenced in Barakat’s answer likely was my November 8, 2024 Order Governing Motion for Entry of a Default Decision.