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July 20, 2020

**VIA ELECTRONIC MAIL**

Vanessa A. Countryman  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090  
apfilings@sec.gov

**RE: In the Matter of the Application of Blair Edwards Olsen,**  
**Administrative Proceeding No. 3-19629**

Dear Ms. Countryman:

Enclosed for filing in the above-referenced matter, please find FINRA's Opposition to Olsen's Motion for Summary Disposition. Please contact me if you have any questions.

Sincerely,



Michael M. Smith

Enclosure

cc: Blair Edwards Olsen  
P.O. Box [REDACTED]  
Carefree, AZ 85377  
[REDACTED]@hughes.net

**BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C.**

In the Matter of the Application of

BLAIR EDWARDS OLSEN

Administrative Proceeding File No. 3-19629

**FINRA'S OPPOSITION TO OLSEN'S MOTION FOR SUMMARY DISPOSITION**

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Vice President and  
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**BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
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BLAIR EDWARDS OLSEN  
  
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**FINRA’S OPPOSITION TO OLSEN’S MOTION FOR SUMMARY DISPOSITION**

The Commission should deny Olsen’s motion for summary disposition for two independent reasons. First, Olsen’s motion is procedurally improper. The Commission’s Rules of Practice do not provide for summary disposition in an appeal of a determination by a self-regulatory organization (“SRO”). Second, Olsen’s motion lacks justification and seeks relief the Commission cannot grant. FINRA already has vacated the bar it imposed on Olsen, and the Commission does not have authority to award Olsen attorney’s fees and costs.

**I. Factual and Procedural Background<sup>1</sup>**

In May 2019 and June 2019, FINRA’s Department of Enforcement (“Enforcement”) served Olsen, through counsel, with requests for documents and information, pursuant to FINRA Rule 8210 (the “May 2019 Request” and the “June 2019 Request,” collectively, the “Requests”). RP 1-4; 45-50.<sup>2</sup> The Requests related to criminal charges Olsen disclosed on his Uniform Application for Securities Industry Registration or Transfer (“Form U4”). *See id.*

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<sup>1</sup> For a more detailed review of the factual and procedural background, please see FINRA’s Opposition to Olsen’s Application for Review.

<sup>2</sup> “RP \_\_” refers to the page number in the record filed in this case.

Olsen failed to respond to the Requests. In July 2019, Enforcement warned him that, in accordance with FINRA Rule 9552, he would be suspended on August 19, 2019, unless he complied with the Requests or requested a hearing before a FINRA Hearing Officer by that date. RP 63-74. Enforcement further warned Olsen that, if he was suspended, he would be barred automatically on October 28, 2019, unless he requested termination of his suspension by that date. RP 64. Olsen did not comply with the Requests nor did he request a hearing by the August 19, 2020 deadline. As a result, on August 19, 2019, FINRA suspended him. RP 81-92.

On October 25, 2019, three days before Olsen would be barred automatically, Olsen, through counsel, requested an extension of time to respond to the Requests, which FINRA granted. RP 99. FINRA extended the deadline for Olsen to comply with the Requests until November 8, 2019. RP 107-08. On November 8, 2019, Olsen provided only a partial response. *See* RP 317-18. Because Olsen failed to comply fully with the Requests, FINRA barred him on November 11, 2019. *Id.*

Olsen appealed FINRA's regulatory action barring him. RP 323-24. In his brief in support of his application for review, Olsen asked the Commission to "rescind and reverse" the bar FINRA imposed on him. Olsen's Brief in Support of His Application for Review at 1. On July 6, 2020, FINRA notified Olsen that it had vacated the bar, but he remained suspended due to his ongoing failure to comply fully with the Requests. *See* FINRA's Motion to Introduce Additional Evidence at Attachment A. On July 8, 2020, without seeking leave from the Commission to do so, Olsen filed his motion for summary disposition asking the Commission to rescind the bar and award him attorney's fees and costs.

## **II. Argument**

### **A. The Commission Should Dismiss Olsen’s Motion for Summary Disposition Because It Is Procedurally Improper**

The Commission should dismiss Olsen’s motion for summary disposition because it is procedurally improper. Rule 250, which Olsen cites in his motion, permits a motion for summary disposition only in certain administrative proceedings before one of the SEC’s hearing officers. The Commission’s Rules of Practice do not provide for summary disposition in an appeal of a determination by an SRO. Indeed, no purpose is served by summary disposition in the context of an appeal of an SRO determination because such appeals are decided on the record upon which the action complained of was taken, not on evidence adduced in a hearing before an SEC hearing officer. *See James S. Tagliaferri*, Exchange Act Release No. 80047, 2017 SEC LEXIS 481, at \*29 (Feb. 15, 2017) (stating that “the purpose of summary disposition” is “to proceed without a hearing when the moving party meets the summary disposition standard”). Olsen’s motion for summary disposition is procedurally improper and serves no purpose, and the Commission should dismiss it.

### **B. The Commission Should Deny Olsen’s Motion for Summary Disposition Because It Lacks Justification and Seeks Relief the Commission Cannot Grant**

The Commission should deny Olsen’s motion for summary disposition because it lacks justification and seeks relief the Commission cannot grant. In his motion, Olsen asks the Commission to “rescind[] and revers[e]” the bar FINRA imposed on him. Olsen’s Motion for Summary Disposition (“Olsen’s Motion”) at 1. As explained in FINRA’s opposition to Olsen’s application for review, however, FINRA vacated Olsen’s bar on July 6, 2020. Therefore, the Commission cannot grant the relief Olsen seeks with respect to the bar.

Olsen also asks the Commission to award him “sanctions in the amount of \$7,336.46 . . . for [a]ttorney’s fees and costs incurred during the course of this investigation/enforcement action.” Olsen’s Motion at 1. But the Commission does not have authority to impose attorney’s fees and costs on FINRA in a disciplinary proceeding appeal. Section 19(d) of the Securities Exchange Act of 1934 (the “Exchange Act”) authorizes FINRA members and their associated persons to seek Commission review of a disciplinary action taken by FINRA. 15 U.S.C. § 78s(d); *Marshall Financial, Inc.*, 57 S.E.C. 869, 876 (2004). In cases in which a person seeks review of a bar imposed by FINRA, Exchange Act Section 19(f) authorizes the Commission to set aside the bar and require FINRA to permit the person to become associated with a FINRA member. 15 U.S.C. §78s(f). The Exchange Act does not authorize the Commission to award damages or direct payments to the person. *See Citadel Securities LLC*, Exchange Act Release No. 78340, 2016 SEC LEXIS 2464, at 13 (July 15, 2016) (“We do not have authority to award damages under Section 19(f).”); *MFS Securities Corp.*, 56 S.E.C. 380, 394 n. 33 (2003) (“MFS asks for damages, but we do not have the power to make such an award.”); *Eric J. Weiss*, Exchange Act Release No. 69177, 2013 SEC LEXIS 837, at \*45 (Mar. 19, 2013) (“Section 19(f) leaves no discretion to the SEC with respect to the appropriate remedy. We must either dismiss the proceeding or set aside the denial and order admission.”). The Commission therefore cannot award the relief Olsen seeks with respect to attorney’s fees and costs.

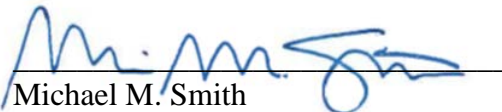
Even if the Commission could impose attorney’s fees and costs, there is no justification for doing so in this case. Olsen argues that FINRA’s vacatur of the bar and “futility to concoct a substantive reply” to Olsen’s brief in support of his application “clearly and unsurprisingly demonstrate [FINRA’s] bad faith, malice and complicity in this legal debacle/failed enforcement action.” Olsen’s Motion at 2. None of Olsen’s aspersions is supported by the record. Instead, as

explained in FINRA's opposition to Olsen's application for review, the record shows that Olsen amended his Form U4 to disclose pending criminal charges; that FINRA properly served Olsen with the Requests seeking documents and information relating to his Form U4 disclosures, in accordance with FINRA Rule 8210; that Olsen failed to fully comply with the Requests, even after FINRA granted him extensions of time to do so, in violation of FINRA Rule 8210; and that, as a result of Olsen's failure to fully comply with the Requests, FINRA suspended Olsen and later barred him, in accordance with FINRA Rule 9552. Although FINRA subsequently vacated the bar, Olsen still has not fully complied with his obligations under FINRA Rule 8210, and therefore the suspension FINRA imposed on him remains in place. Contrary to Olsen's assertions, there is no evidence of bad faith or malice by FINRA in any part of this proceeding.

### **III. Conclusion**

Olsen's motion for summary disposition is procedurally improper and seeks relief the Commission cannot grant. The Commission therefore should deny it.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

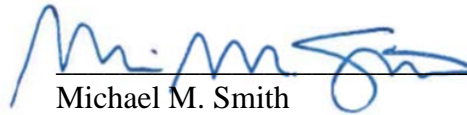
I, Michael Smith, certify that on this 20th day of July 2020, I caused a copy of FINRA's Opposition to Olsen's Motion for Summary Disposition, in the matter of *Application for Review of Blair Edwards Olsen*, Administrative Proceeding No. 3-19629, to be served by electronic mail on:

Vanessa A. Countryman  
Secretary  
Securities and Exchange Commission  
100 F St., NE  
Room 10915  
Washington, DC 20549-1090  
apfilings@sec.gov

Blair Edwards Olsen  
[REDACTED]@hughes.net

Due to office closures related to COVID-19, FINRA intends to serve Olsen by U.S. Mail on Tuesday, July 21, 2020, which is as expeditiously as practicable. FINRA will file another certificate of service with the Commission once Olsen has been served by U.S. Mail.

Respectfully submitted,



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