



**Michael M. Smith**  
Associate General Counsel

Direct: (202) 728-8177  
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July 29, 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 Expedited Ruling. 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 EXPEDITED RULING**

Alan Lawhead  
Vice President and  
Director – Appellate Group

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July 29, 2020

**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 EXPEDITED RULING**

The Commission should deny, in part, Olsen’s motion for an expedited ruling on his motion for summary disposition. In addition to requesting an expedited ruling on his motion for summary disposition, Olsen asks the Commission to (1) “strike and declare as moot” FINRA’s motion to introduce additional evidence and its opposition to his application for review, (2) sanction FINRA and its attorney in this matter “for contemptuous conduct,” (3) order FINRA to remove allegedly “defamatory, scurrilous, and libelous information posted on [its website],” and (4) award Olsen his attorney fees. These requests for relief are factually and legally baseless.<sup>1</sup>

**Factual and Procedural Background**

1. In November 2019, FINRA barred Olsen for failing to comply fully with requests for documents and information served on him by FINRA’s Department of Enforcement (“Enforcement”). RP 317-18.<sup>2</sup>

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<sup>1</sup> FINRA takes no position on Olsen’s request to expedite the ruling on his motion for summary disposition. The Commission should deny that motion because it is procedurally improper and seeks relief that is not justified and the Commission cannot grant.

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

2. Olsen appealed FINRA's regulatory action barring him. RP 323-24.
3. On May 26, 2020, Olsen filed his brief in support of his application for review.
4. On July 6, 2020, before FINRA's opposition to Olsen's application was due,

FINRA vacated the bar it had imposed on Olsen in November 2019. *See* Attachment A to FINRA's Motion to Introduce Additional Evidence.

5. On July 7, FINRA's attorney in this matter, Michael Smith, sent Olsen an email and attached a copy of a letter Enforcement issued to Olsen on July 6, 2020, informing him that FINRA was vacating the bar. In his email to Olsen, Smith wrote:

Mr. Olsen,

FINRA's Department of Enforcement has vacated the bar it previously imposed on you (see attached letter). As a result, we plan to file a motion to dismiss your application for review as moot. Please let me know if you consent to the dismissal of your application. Thank you.

*See* Exhibit C to Olsen's Motion for Expedited Ruling.<sup>3</sup> Olsen did not respond to the email.

6. The next day, July 8, 2020, Olsen electronically filed his motion for summary disposition with the Commission. Olsen emailed a copy of his motion to FINRA the same day, but did not serve the motion in accordance with Rule 150 of the Commission's Rules of Practice until two days later, on July 10, 2020, when he sent it to FINRA by U.S. Mail. *See* Exhibit D to Olsen's Reply to Respondent's Opposition to Motion for Summary Disposition.

7. On July 16, 2020, FINRA electronically filed with the Commission its opposition to Olsen's application for review.

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<sup>3</sup> In his motion, Olsen misstates the contents of Smith's email. Olsen writes that Smith notified him that FINRA "was unable to reply to his opening brief, offered to vacate the lifetime bar imposed on July 25<sup>th</sup> 2019 (asking for his consent), and stated that they 'intended to file a motion to dismiss, thereby rendering [Olsen's] Opening Brief as moot.'" Olsen's Motion for Expedited Ruling at ¶ 3. None of those statements is accurate.

8. The same day, July 16, 2020, FINRA electronically filed its motion to introduce additional evidence. FINRA's motion sought admission of the letter Enforcement sent to Olsen notifying him that FINRA had vacated the bar it imposed on him in November 2019. FINRA emailed a copy of its motion to Olsen that day, and served the motion on Olsen by U.S. Mail on July 21, 2020.<sup>4</sup>

9. After FINRA filed its motion with the Commission, Olsen emailed Smith's non-attorney administrative assistant, Michelle Parker, and asked her to "acknowledge [FINRA's] receipt of [Olsen's] Motion for Summary Disposition filed and served upon FINRA/SEC on 7/8/20." *See* Attachment A, hereto. Olsen's representation to Parker that he had served his motion on FINRA on July 8, 2020, was misleading because Olsen did not properly serve his motion on FINRA until July 10, 2020. *See* Exhibit D to Olsen's Motion for Expedited Ruling; FINRA's Opposition to Olsen's Motion to Strike at ¶¶ 9-13.<sup>5</sup>

10. After reviewing Olsen's message to Parker, Smith sent the following message to Olsen via email:

Mr. Olsen,

I am the attorney representing FINRA in this SEC proceeding. Please do not communicate with Ms. Parker or anyone else at FINRA about this proceeding except me. Thank you.

*See* Attachment B, hereto.

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<sup>4</sup> FINRA was unable to serve Olsen with the motion the same day it was filed due to office closures related to COVID-19.

<sup>5</sup> Olsen apparently believed that FINRA's opposition to his motion was due five days after he emailed it to FINRA. FINRA's opposition actually was due July 20, 2020, and FINRA timely filed it on that date.

11. On July 19, 2020, Olsen electronically filed his motion for an expedited ruling on his motion for summary disposition.<sup>6</sup> Olsen did not serve the motion on FINRA until the next day, July 20, 2020, when he sent it to FINRA by U.S. Mail.

### Argument

#### *FINRA's Motion to Introduce Additional Evidence and FINRA's Opposition to Olsen's Application for Review Are Not Moot*

12. Olsen argues the Commission should “declare as moot” and strike FINRA’s “nonresponsive” motion to introduce additional evidence and its opposition to Olsen’s application for review. The Commission should reject Olsen’s argument because neither filing is moot or nonresponsive.

13. The “test for mootness is whether the relief sought would, if granted, make a difference to the legal interests of the parties.” *Marshall Financial, Inc.*, 57 S.E.C. 869, 877 (2004). In its motion to introduce additional evidence, FINRA asks the Commission to admit the letter Enforcement sent to Olsen notifying him that FINRA had vacated the bar imposed on him in November 2019. In its opposition to Olsen’s application for review, FINRA argues that the Commission should dismiss Olsen’s application as moot because Olsen already has obtained all of the relief sought in his application, as evidenced by FINRA’s letter. The Commission’s admission of the letter and its dismissal of Olsen’s application for review would make a difference to the legal interest of the parties, and therefore neither FINRA’s motion to admit additional evidence nor its opposition to Olsen’s application is moot.

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<sup>6</sup> The Commission and FINRA did not receive Olsen’s email until July 20, 2020, due to the time difference between Arizona and Washington, D.C. Olsen’s email to the Commission and FINRA is time stamped 12:44 a.m. EDT on July 20, 2020. Olsen apparently sent the email from Arizona at 9:44 p.m. MST on July 19, 2020.

*The Commission Should Strike Olsen's Groundless Allegations of Misconduct*

14. Olsen argues the Commission should sanction FINRA and its attorney, Smith, “for contemptuous conduct under Rule 180[.]” Olsen’s request for sanctions has no merit, and the Commission should strike his groundless allegations of misconduct in accordance with Rule 152(f) of the Commission’s Rules of Practice.

15. Although Olsen does not identify the allegedly contemptuous conduct, his request for sanctions appears to be based on his allegations in paragraphs 5, 6, and 7 of his motion for an expedited ruling.

16. In paragraph 5, Olsen alleges that, rather than responding to his motion for summary disposition, FINRA “filed two nonsensical and inconsequential motions in a thinly-veiled attempt to circumvent the obvious fact” that Olsen’s brief in support of his application “[s]ummarily exposes FINRA’s bad faith in dispositive and succinct fashion.”<sup>7</sup> Olsen apparently is referring to FINRA’s motion to introduce additional evidence and its opposition to Olsen’s application for review, both of which FINRA filed on July 16, 2020.

17. Neither FINRA’s motion to introduce additional evidence nor its opposition to Olsen’s application for review is “nonsensical and inconsequential,” nor is either an attempt to circumvent Olsen’s purported exposition of FINRA’s bad faith. In its opposition to Olsen’s application for review, FINRA explains that Olsen’s application is moot because Olsen already has obtained all of the relief sought in his application, i.e., the rescission of the bar FINRA imposed on him. FINRA further explains that, despite its decision to vacate Olsen’s bar, the record conclusively establishes that Enforcement properly served Olsen with requests for

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<sup>7</sup> FINRA responded to Olsen’s motion for summary disposition on July 20, 2020.

documents and information pursuant to FINRA Rule 8210, and that Olsen has yet to comply fully those requests. As a result, Olsen remains suspended from associating with any FINRA member in any capacity unless and until he seeks termination of his suspension on the ground of full compliance, in accordance with FINRA Rule 9552. Olsen's characterization of FINRA's motion to introduce additional evidence and its opposition to his application for review is inaccurate and the Commission should deny his motion to strike them.

18. In paragraph 6, Olsen alleges that FINRA's assertion that he has received all of the relief sought in his application is "quite simply a specious and fraudulent statement" because he remains suspended until he "provides documents he doesn't have[.]" The record, however, establishes that Olsen sought termination of his bar in his application for review; he did not seek termination of his suspension, nor could he. In his application for review, Olsen wrote he was appealing the FINRA "ruling . . . of which [he] received notification on 11/29/2019." RP 324. FINRA did not notify Olsen of his suspension in November 2019; FINRA suspended Olsen on August 19, 2019 and notified him about the suspension the same day. RP 81-92; 93-98. Rather, FINRA notified Olsen of the bar in November 2019. RP 303-13; 315-21. Additionally, in the first line of his brief in support of his application, Olsen writes that he is asking "the Commission to *rescind and reverse the permanent bar enacted by FINRA on November 11, 2019*, and to reinstate [Olsen's] [s]ecurities licensure effective immediately." Olsen's Brief in Support of Application for Review at 1. Olsen did not—and could not—ask the Commission to rescind and reverse his suspension because he failed to exhaust FINRA's available administrative remedies before his suspension was imposed. *See* FINRA's Opposition to Olsen's Application for Review at 14-16. To the extent Olsen is not able to fully comply with Enforcement's outstanding requests for documents and information, as he suggests in his motion for an expedited ruling, he



is free to raise that issue with FINRA's Head of Enforcement in a request to terminate his suspension on the ground of full compliance, in accordance with FINRA Rule 9552. He cannot, however, raise the issue for the first time during this appeal. *See id.*

19. Olsen further alleges in paragraph 6 that Smith "attempted to evade service in an effort to circumvent [Olsen's] MSD [motion for summary disposition] filing by failing to issue email read & delivery receipts, and then taking umbrage when his secretary (Michelle Parker) did so." There is no evidence that Smith or any FINRA employee attempted to evade service of Olsen's motion for summary disposition because Olsen's emails to FINRA do not constitute service under the Commission's Rules of Practice. Rule 150 does not allow parties to serve each other by email, and therefore Olsen's July 8, 2020 email to Smith attaching a copy of his motion for summary disposition was not service, nor was his July 16, 2020 email to Parker, and nothing Smith did in response to those emails could be construed as an attempt to evade service of Olsen's motion. FINRA acknowledges that it was served with Olsen's motion for summary disposition on July 10, 2020, when Olsen sent it to FINRA by U.S. Mail.

20. In paragraph 7, Olsen alleges that FINRA "still has defamatory, scurrilous, and libelous information posted on [its] website, listing the previously dismissed criminal case as a 'pending charge.'" Olsen alleges that FINRA "was informed almost ONE YEAR AGO that all felony charges were summarily dismissed, yet continues its malicious, libelous, and defamatory posting." This appears to be a reference to content contained in Olsen's BrokerCheck report on FINRA's website. FINRA has an administrative process through which Olsen can dispute the accuracy of the information contained in his BrokerCheck report. *See* FINRA Rule 8312(e). There is no evidence in the record that he has engaged in that process, and therefore he has not exhausted available administrative remedies. Additionally, the Commission lacks jurisdiction to

“order [FINRA] to immediately redact & remove” the information from Olsen’s BrokerCheck report, as Olsen requests in his motion. *See Eric David Wanger*, Exchange Act Release No. 79008, 2016 SEC LEXIS 3770, at \*11 (Sept. 30, 2016).

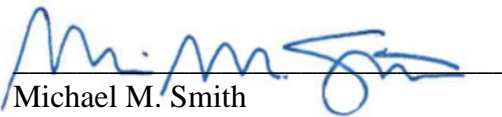
***Olsen Is Not Entitled to His Attorney’s Fees  
and the Commission Cannot Award Them***

21. As explained in FINRA’s opposition to Olsen’s motion for summary disposition, there is no justification for awarding Olsen his attorney’s fees in this matter, and the Commission lacks jurisdiction to do so. *See FINRA’s Opposition to Olsen’s Motion for Summary Disposition* at 3-5.

**Conclusion**

The Commission should (a) deny Olsen’s request to “declare as moot” and strike FINRA’s motion to introduce additional evidence and its opposition to Olsen’s application for review; (b) deny Olsen’s request for sanctions against FINRA and its attorney, and strike Olsen’s groundless allegations of misconduct, in accordance with Rule 152(f); and (c) deny Olsen’s request for attorney’s fees.

Respectfully submitted,

  
Michael M. Smith  
Associate General Counsel  
FINRA – Office of General Counsel  
1735 K Street, NW  
Washington, D.C. 20006  
michael.smith@finra.org  
(202) 728-8177

# Attachment A

**From:** [Parker, Michelle](#)  
**To:** [Smith, Michael](#); [Bellamy, Robin P](#)  
**Subject:** FW: Admin. Proc. No. 3-19629: Blair Edwards Olsen  
**Date:** Thursday, July 16, 2020 3:06:13 PM  
**Attachments:** [image001.png](#)  
[Summary dispo EXHIBITS.docx](#)  
[summary disposition.docx](#)

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**From:** Blair Olsen [REDACTED]@hughes.net>  
**Sent:** Thursday, July 16, 2020 3:04 PM  
**To:** Parker, Michelle <Michelle.Parker@finra.org>  
**Subject:** RE: Admin. Proc. No. 3-19629: Blair Edwards Olsen

**EXTERNAL:** Verify sender before opening attachments or links.

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Ms Parker;

Please acknowledge your receipt of this Motion for Summary Disposition filed and served upon FINRA/SEC on 7/8/20.

Regards,

B E Olsen

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**From:** Parker, Michelle [<mailto:Michelle.Parker@finra.org>]  
**Sent:** Thursday, July 16, 2020 11:51 AM  
**To:** [REDACTED]@hughes.net  
**Cc:** Smith, Michael <[Michael.Smith@finra.org](mailto:Michael.Smith@finra.org)>; Bellamy, Robin P <[Robin.Bellamy@finra.org](mailto:Robin.Bellamy@finra.org)>; Canady, Donna <[Donna.Canady@finra.org](mailto:Donna.Canady@finra.org)>  
**Subject:** Admin. Proc. No. 3-19629: Blair Edwards Olsen

The attached documents were filed with the SEC today, July 16, 2020 in the subject-referenced matter.

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.

*Michelle C. Parker*

FINRA  
Office of General Counsel  
1735 K Street, NW | Washington, DC 20006-1506  
202 728 8036 w | 202 689 3384 f

[michelle.parker@finra.org](mailto:michelle.parker@finra.org)



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# Attachment B

**From:** [Blair Olsen](#)  
**To:** [Smith, Michael](#); [Parker, Michelle](#)  
**Subject:** RE: FINRA/SEC  
**Date:** Thursday, July 16, 2020 5:00:44 PM  
**Attachments:** [image001.png](#)

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**EXTERNAL:** Verify sender before opening attachments or links.

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Sir;

You have my word I will give your request all the consideration it merits.

Regards,

B E Olsen

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**From:** Smith, Michael [mailto:Michael.Smith@finra.org]  
**Sent:** Thursday, July 16, 2020 12:42 PM  
**To:** [REDACTED]@hughes.net  
**Subject:** FINRA/SEC

Mr. Olsen,

I am the attorney representing FINRA in this SEC proceeding. Please do not communicate with Ms. Parker or anyone else at FINRA about this proceeding except me. Thank you.

Michael M. Smith

**Michael M. Smith**  
Associate General Counsel  
Office of General Counsel  
1735 K Street, N.W.  
[Michael.Smith@finra.org](mailto:Michael.Smith@finra.org)  
t: (202) 728-8177



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**CERTIFICATE OF SERVICE**

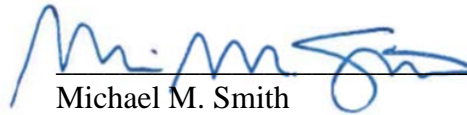
I, Michael M. Smith, certify that on this 29th day of July 2020, I caused a copy of FINRA's Opposition to Olsen's Motion for Expedited Ruling, in the matter of *Application for Review of Blair Edwards Olsen*, Administrative Proceeding No. 3-19629, to be served by electronic mail on:

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

and via first-class mail and electronic mail on:

Blair Edwards Olsen  
P.O. Box 5521  
Carefree, AZ 85377  
[REDACTED]@hughes.net

Respectfully submitted,



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