

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SILVER LEAF PARTNERS, LLC  
(CRD No. 126694),

Respondent.

Disciplinary Proceeding  
No. 2014042606902

Hearing Officer–DW

**ORDER GRANTING ENFORCEMENT'S  
MOTION FOR RULE-COMPLIANT ANSWER**

On September 20, 2017, FINRA's Department of Enforcement ("Enforcement") filed a two-cause Complaint against Respondent, Silver Leaf Partners, LLC ("Respondent"). The first cause of action alleges that Respondent improperly paid transaction-based compensation to an unregistered person and eight unregistered entities. The second cause of action alleges that Respondent failed to adequately supervise its business in order to prevent the payment of transaction-based compensation, as well as other risks associated with its business. On October 9, 2017, Respondent filed an unopposed motion for extension of time to file its Answer to the Complaint, which I granted the next day, requiring Respondent to file an Answer on or before November 15, 2017.

On November 17, 2017, Respondent filed a document titled "Statement of Answer." Instead of specifically admitting or denying the facts alleged in each separate paragraph of Enforcement's Complaint, the Answer denies "all facts" in the Complaint and then embarks upon an extended discussion of the background and operations of the firm, Enforcement's investigation, and the details of an arbitration case that Respondent insists relates to the present disciplinary proceeding. Enforcement now moves for an order requiring Respondent to file an Answer that is compliant with FINRA Rule 9215(b) (the "Rule") and does not contain scandalous or impertinent matters.

Enforcement is correct that Respondent's Answer does not comply with the requirements of FINRA Rule 9215(b). The Rule requires that an Answer shall admit or deny "each allegation" of a Complaint, or state in the alternative that the Respondent does not have (and is unable to obtain) sufficient information to admit or deny the allegation. Contrary to this requirement, the Answer fails to specifically admit or deny each separate paragraph of Enforcement's Complaint (or state that the Respondent lacks sufficient information to do so). The Rule contemplates that

the pleadings will clarify whether each allegation (as reflected in separately numbered paragraphs of the Complaint) or some portion thereof, is disputed. Respondent's Answer fails to clarify which of the Complaint's factual or legal assertions will actually be contested at the hearing.

Respondent does not dispute this, but requests that Enforcement first be required to identify which of its allegations have not already been directly or indirectly addressed by the lengthy narrative of the original Answer before any Amended Answer is required. This is inconsistent with the Rule. The purpose of requiring the Answer to admit or deny each specific allegation is to readily identify which issues are truly disputed by the parties so that time and resources are not wasted litigating matters not in genuine dispute. Enforcement should not be made to sift through a more than 400-paragraph Answer in order to attempt to divine whether or not even the most straightforward of its allegations are disputed. Respondent's failure to comply with the Rule interferes with the efficient and fair conduct of the proceeding.

I therefore order Respondent to file an Amended Answer that specifically responds to each of the allegations of the Complaint as reflected in numbered paragraphs. Any continued failure to respond directly and specifically to each allegation of the Complaint shall be deemed an admission of the particular allegation pursuant to FINRA Rule 9215(f).

Enforcement also requests that Respondent be ordered to omit scandalous and impertinent matter from the Amended Answer. Under FINRA Rule 9136(e), the Hearing Officer may strike from any filing "[a]ny scandalous or impertinent matter." However, the parties' submissions make clear that they have differing views on what constitutes scandalous or impertinent matters. I note that as a general proposition, "[s]candalous' matter 'casts a derogatory light on someone, usually a party to the action,' and 'impertinent' matter is 'not responsive or relevant to the issues involved.'"<sup>1</sup> And while FINRA Rule 9136(e) does not speak directly to motions to strike defenses asserted in an Answer, the National Adjudicatory Council has recognized that "[t]he practice in disciplinary proceedings is to strike those affirmative defenses that do not constitute a valid defense to avoid wasting time litigating irrelevant facts."<sup>2</sup>

At this juncture, and in the absence of a motion specifically directed at particular aspects of the Answer, I make no determination as to whether the various assertions presently set forth in the Answer constitute valid defenses, or are even relevant to the issues at hand. But as Respondent formulates an Amended Answer, I reiterate that the purpose of the pleading is to simply provide notice to the other side of the facts and issues to be litigated at the hearing, not

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<sup>1</sup> OHO Order 12-06 (2011026664301) (Oct. 23, 2012) at 2 (quoting *Egan-Jones Rating Company*, 2012 SEC LEXIS 2204, at \*4 (July 13, 2012) [http://www.finra.org/sites/default/files/OHODecision/p229429\\_0.pdf](http://www.finra.org/sites/default/files/OHODecision/p229429_0.pdf)).

<sup>2</sup> *Dep't of Enforcement v. Bullock*, Complaint No. 2005003437102, 2011 FINRA Discip. LEXIS 14, at \*56 (NAC May 6, 2011) (quoting *Dep't of Enforcement v. Epstein*, Complaint No. C9B040098, 2007 FINRA Discip. LEXIS 18, at \*88 (NAC Dec. 20, 2007), *aff'd* Exchange Act Release No. 59328, 2009 SEC LEXIS 217 (Jan. 30, 2009)).

the presentation of detailed evidence.<sup>3</sup> Evidence and other exhibits intended to be offered at the hearing generally need not be attached as exhibits to an Answer.<sup>4</sup>

Accordingly, for good cause shown, I **GRANT, IN PART**,<sup>5</sup> Enforcement's motion. Respondent is hereby **ORDERED** to file, by **January 31, 2018**, an answer that complies with FINRA Rule 9215(b).

**SO ORDERED.**



David Williams  
Hearing Officer

Dated: January 10, 2018

Copies to:

Silver Leaf Partners, LLC (via email and first-class mail)  
Danielle I. Schanz, Esq. (via email and first-class mail)  
Jason W. Gaarder, Esq. (via email)  
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<sup>3</sup> See OHO Order 07-18 (2005001449202) (May 11, 2007) at 2-3.

([http://www.finra.org/sites/default/files/OHODDecision/p037018\\_0\\_0\\_0.pdf](http://www.finra.org/sites/default/files/OHODDecision/p037018_0_0_0.pdf) (Requiring Amended Answer to “articulate with reasonable specificity the factual and legal bases for each alleged defense”).

<sup>4</sup> OHO Order 12-06 at 3.

<sup>5</sup> Enforcement's motion also seeks a stay of its discovery obligations until a compliant Answer is filed. In light of the Scheduling Order already entered in this case, that request is denied.