

FINANCIAL INDUSTRY REGULATORY AUTHORITY  
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOHN A. ORLANDO  
(CRD No. 2002197),

Respondent.

Disciplinary Proceeding  
No. 2019063633301

Hearing Officer—RES

**ORDER GOVERNING RESPONDENT'S BRIEFING ON DEPARTMENT  
OF ENFORCEMENT'S MOTION TO STRIKE RESPONDENT'S  
AFFIRMATIVE DEFENSES AND PORTIONS OF THE ANSWER**

The Office of Hearing Officers is in receipt of the Department of Enforcement's motion to strike Respondent John Orlando's affirmative defenses and portions of the Answer ("Motion").

Respondent shall file an Opposition to the Motion ("Opposition") on or before May 24, 2022. The Opposition shall identify by citation, in separate paragraphs corresponding to each affirmative defense in the Answer (except the first affirmative defense), the **controlling legal authority** that supports the following propositions:

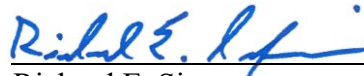
1. The proposition that Enforcement's claims against Respondent are defeated if Enforcement improperly and fraudulently induced the complaining customer ("Customer A") to file a specious Statement of Claim on the quid-pro-quo that FINRA would help Customer A recover his losses (Second Affirmative Defense).
2. The proposition that Enforcement's claims against Respondent are defeated if Enforcement engaged in prosecutorial abuse and improper conduct outside of its regulatory function to wrongly induce Customer A to bring an arbitration claim against his broker (Third Affirmative Defense).
3. The proposition that Enforcement's claims against Respondent are defeated if Enforcement has pursued charges against Respondent in bad faith (Fourth Affirmative Defense).

4. The proposition that Enforcement's claims against Respondent are defeated if Enforcement knows or has reason to believe that the witness upon whom it relies will not appear and testify at the hearing (Fifth Affirmative Defense).
5. The proposition that Enforcement's claims against Respondent are defeated if Enforcement pursues charges based, in part, on on-the-record testimony that was attended by an Enforcement examiner who, at the time, had a conflict of interest arising from a subpoena issued by a hearing panel to testify and produce documents in connection with her actions as to Respondent (Sixth Affirmative Defense).

The decisions of FINRA's National Adjudicatory Council, the Securities and Exchange Commission, and the United States Courts of Appeals are considered **controlling legal authority** for the purpose of this Order and Respondent's Opposition.

Aside from the above-ordered paragraphs which correspond to the affirmative defenses in his Answer, Respondent may include in his Opposition any additional arguments that support the affirmative defenses.

**SO ORDERED.**



Richard E. Simpson  
Hearing Officer

Date: May 17, 2022

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