

This order has been published by the NASDR Office of the Hearing Officers and should be cited as OHO Order 98-10 (C10970176).

**NASD REGULATION, INC.
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,	:	
	:	
Complainant,	:	Disciplinary Proceeding
	:	No. C10970176
v.	:	
	:	Hearing Officer - EAE
	:	
Respondents.	:	

ORDER AS TO RESPONDENT

By Order of January 13, 1998, the Hearing Officer directed the Department of Enforcement to file a Motion for Entry of a Default Decision as to Respondent _____¹ on or before February 27, 1998. On or about January 21, 1998, the Office of Hearing Officers was informed by counsel for Complainant that he had received a communication from "a representative" of Respondent _____. Such communication was not filed with the Office of Hearing Officers.

Complainant's counsel was requested to forward the communication received from "a representative" of Respondent _____ to the Office of Hearing Officers. The communication is a letter dated January 20, 1998, addressed to counsel for Complainant, requesting that the Complaint be withdrawn pursuant to Code of Procedure Rule 9212.²

Code of Procedure Rule 9141(a) clearly provides that a person "may appear on his or his own behalf" in a proceeding subject to the procedures set forth therein. Alternatively, Code of Procedure Rule 9141(b) provides, in pertinent part ---

¹ That Order also directed Complainant to file a Motion for Entry of a Default Decision as to Respondent _____.

² A copy is attached hereto.

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A person shall not be represented before an Adjudicator, except as provided in this paragraph. * * * a person may be represented in any proceeding by an attorney at law admitted to practice before the court of any state of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

Upon review, it appears that the "representative" of Respondent ____ who submitted the January 20, 1998 communication to counsel for Complainant is not an attorney.³ Thus, the January 20, 1998, communication to Complainant's counsel is not considered filed with the Office of Hearing Officers and will not be considered an answer to the Complaint pursuant to Code of Procedure Rule 9215.

As set forth in the Order of January 13, 1998, Department of Enforcement is to file a Motion for Entry of a Default Decision as to Respondent ____ on or before February 27, 1998.⁴

SO ORDERED

Ellen A. Efros
Hearing Officer

Dated: Washington, DC
January 21, 1998

³ If such person is an attorney, he immediately should file with the Office of Hearing Officers and serve on all Parties to this disciplinary proceeding, a Notice of Appearance, pursuant to Code of Procedure Rule 91414(b), with documentation evidencing such status.

⁴ If Respondent ____, either *pro se* or by and through counsel, pursuant to Code of Procedure Rule 9141, files with the Office of Hearing Officers and serves upon all parties a proper answer, pursuant to Code of Procedure Rule 9215, forthwith, the Hearing Officer will consider vacating the January 13, 1998 Order as to Respondent _____. Respondent _____ is reminded that, whether he appears *pro se* or through counsel, he must comply with all applicable provisions of the Code including those relating to filing and service.