

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JAMES LUKEZIC
(CRD No. 4284800),

Respondent.

Disciplinary Proceeding
No. 2022073425001

Hearing Officer–MPD

**ORDER REGARDING RESPONDENT’S MOTION FOR
THE PRODUCTION OF WITNESS STATEMENTS**

I. Background

The Complaint in this matter contains three causes of action. In the first cause of action, the Department of Enforcement alleges that Respondent James Lukezic violated FINRA Rule 2010 by effecting six mutual fund exchanges in the accounts of five customers without first obtaining the customers’ authorization for those transactions. In the second and third causes of action, Enforcement alleges that Lukezic violated FINRA Rules 8210 and 2010 by providing false or misleading information to FINRA during its investigation into the allegedly unauthorized mutual fund exchanges.

On July 7, 2025, Respondent filed a motion for the production of witness statements, pursuant to FINRA Rule 9253 (“Motion”). Enforcement filed a response to the Motion, supported by a sworn declaration from one of its attorneys, on July 16, 2025.¹ And on July 17, 2025, Respondent filed a reply in further support of the Motion (“Reply”).²

For the reasons set forth below, I deny the Motion.

¹ Department of Enforcement’s Response to Respondent’s Rule 9253 Motion (“Enforcement’s Response”); Declaration of Ashley Morris in Support of Department of Enforcement’s Response to Respondent’s Rule 9253 Motion (“Morris Decl.”).

² Respondent filed his Reply without first obtaining leave to do so, as is required under both the Case Management and Scheduling Order (“CMSO”) and FINRA Rule 9146(h). Although I have considered the Reply and made it a part of the record, I caution Respondent that any future replies filed without leave may be rejected.

II. Discussion

FINRA Rule 9253(a)(1) requires Enforcement to produce, upon request, any substantially verbatim recording or transcription of an oral statement by a potential witness that pertains to the witness's expected testimony and was recorded contemporaneously with the making of the statement. FINRA Rule 9253(a)(2) requires Enforcement to produce, upon request, any contemporaneously written statement made by an interested FINRA staff member during a routine examination or inspection about the substance of oral statements made by a non-FINRA person if either person is called as a witness and the statement for which production is sought directly relates to that person's testimony.

In its response to the Motion, Enforcement represents that it already has produced all statements it is required to produce under FINRA Rule 9253.³ According to Enforcement, its production to Respondent has included, among other documents, several audio recordings and corresponding transcripts of telephone calls between Respondent and representatives of the transfer agent for the mutual funds at issue and between Respondent's customers and the transfer agent's representatives, five internal Memoranda of Interviews of Respondent's customers, and four additional Memoranda of Interviews of another potential witness.⁴

Notwithstanding these representations, Respondent, for the first time in his Reply, raises "questions" about whether Enforcement has, in fact, complied with its discovery obligations.⁵ In particular, based on his review of Enforcement's production, he notes that "one or more documents that identify calls between a representative of [the transfer agent] and a customer do not appear to have a corresponding tape."⁶ Respondent does not seem to know whether Enforcement possesses such tapes.⁷ His Reply merely raises suspicions. These suspicions are insufficient to undermine the veracity of Enforcement's sworn representations.

III. Conclusion

In light of Enforcement's sworn representations, it appears that there is nothing for me to order produced at this time. For this reason, Respondent's Motion is **DENIED**. That said, Enforcement's obligation to identify and produce statements that fall within the parameters of

³ Enforcement's Response, at 2-3; Morris Decl., ¶¶ 10-11. In response to an earlier motion to compel by Respondent in this matter, Enforcement represented that it had fully complied with its discovery obligations under FINRA Rule 9251 and had not withheld from production any documents containing material exculpatory evidence. Declaration of Ashley Morris in Support of Department of Enforcement's Opposition to Motion for Order to Compel Discovery, ¶¶ 7-8.

⁴ Enforcement's Response, at 1-2 & n.6; Morris Decl., ¶¶ 7, 9.

⁵ Reply, at 2.


⁶ *Id.*

⁷ *See id.* ("This leads to the obvious questions of whether Enforcement has that taped recording" and, if so, "why it would be withholding that taped encounter with the customer"). Respondent did not file a certification that he made a reasonable, good-faith effort to meet and confer with Enforcement, as is required under the CMSO.

FINRA Rule 9253 is ongoing. Accordingly, if Enforcement should discover or create any additional statements covered by FINRA Rule 9253, I ORDER it to promptly produce them to Respondent.

Further, for the avoidance of doubt, at the time of filing pre-hearing submissions, Enforcement shall file and serve a certification certifying that it has produced to Respondent all witness statements that are covered by FINRA Rule 9253.

SO ORDERED.



Megan P. Davis
Hearing Officer

Dated: July 23, 2025

Copies to:

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