

**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 PREHEARING OBJECTIONS TO EXHIBITS**

**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.

As part of their prehearing submissions, the parties submitted proposed exhibits on September 2, 2025. On September 15, 2025, Enforcement filed written objections to 10 of Respondent's proposed exhibits,<sup>1</sup> and Respondent filed written objections to 27 of Enforcement's proposed exhibits.<sup>2</sup> On September 22, 2025, Enforcement and Respondent both filed responses to the other's objections.<sup>3</sup>

Also on September 22, 2025, Enforcement moved for leave to amend its exhibit list to add four additional exhibits and to substitute a new, signed declaration for the unsigned copy that it previously submitted as CX-26. I granted Enforcement leave to amend its exhibit list and to substitute a new CX-26, but deferred ruling on the admissibility of the new proposed exhibits. I

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<sup>1</sup> Enforcement's Objections to Respondent's Proposed Exhibits ("Enforcement's Objections").

<sup>2</sup> Respondent's Objections to Complainant's Exhibits ("Respondent's Objections").

<sup>3</sup> Enforcement's Response to Respondent's Objections to Enforcement's Exhibits ("Enforcement's Response"); Respondent's Response to Complainant's Objections to Respondent's Proposed Exhibits ("Respondent's Response").

gave Respondent the opportunity to submit written objections to the new proposed exhibits. Respondent submitted written objections on September 27, 2025.<sup>4</sup> He also addressed Enforcement's new proposed exhibits orally at the final prehearing conference in this matter on September 29, 2025.

## II. Discussion

### A. Legal Standard

FINRA Rule 9263 provides that “[t]he Hearing Officer shall receive relevant evidence and may exclude all evidence that is irrelevant, immaterial, unduly repetitious, or unduly prejudicial.”<sup>5</sup> The Hearing Officer has “broad discretion” to admit or reject evidence under FINRA Rule 9263.<sup>6</sup> That said, the standard for precluding evidence prior to the hearing is a high one. Prehearing motions to exclude evidence are generally disfavored and should be granted “only if the evidence at issue is clearly inadmissible for any purpose.”<sup>7</sup> The Hearing Officer is almost always better situated in the hearing to assess the value and utility of the evidence.<sup>8</sup>

### B. Recorded Telephone Calls – CX-6 through CX-9a, CX-11 through CX-16a

Enforcement represents that proposed exhibits CX-6 through CX-9a and CX-11 through CX-16a are recordings and related transcripts of telephone calls between representatives of the entity that distributed the mutual funds at issue in this proceeding (“American Funds”) and customers of Respondent. Respondent objects to the admissibility of the recordings and transcripts on the grounds, among others, that certain of the calls allegedly were made to or from states that are “two-party consent states, requiring notice and consent of the parties on both ends of the call to tape the calls prior to initiate such taping.”<sup>9</sup> In its response, Enforcement states that “there is no issue with two-party consent” because one of its witnesses from American Funds, Rose Jentz, will testify that “for all incoming calls to American Funds a recording is played notifying the caller that the call will be recorded.”<sup>10</sup> Enforcement’s response does not address its basis for believing that any *outgoing* calls from American Funds provided notice that the calls were being recorded.

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<sup>4</sup> Respondent’s Objections to Complainant’s Supplemental Exhibits Filed on September 22, 2025 (“Respondent’s Supp. Objections”).

<sup>5</sup> FINRA Rule 9263(a).

<sup>6</sup> OHO Order 23-05 (2020066627202) (Feb. 9, 2023), at 2 (quoting *Dep’t of Enforcement v. Weinstock*, No. 2010022601501, 2016 FINRA Discip. LEXIS 34, at \*37 (NAC July 21, 2016)), <https://www.finra.org/sites/default/files/2023-05/oho-order-23-05-2020066627202-capellini.pdf>.

<sup>7</sup> OHO Order 23-08 (2017055886402) (Feb. 21, 2023), at 2 (quoting OHO Order 18-09 (2014039775501) (May 2, 2018), at 4, [https://www.finra.org/sites/default/files/OHO\\_Order\\_18-09\\_2014039775501.pdf](https://www.finra.org/sites/default/files/OHO_Order_18-09_2014039775501.pdf)), [https://www.finra.org/sites/default/files/2023-05/oho\\_order\\_23-08\\_2017055886402\\_cantone.pdf](https://www.finra.org/sites/default/files/2023-05/oho_order_23-08_2017055886402_cantone.pdf).

<sup>8</sup> OHO Order 23-05, at 3.

<sup>9</sup> Respondent’s Objections, at 6.

<sup>10</sup> Enforcement’s Response, at 7.

I discussed this issue with the parties at the final prehearing conference on September 29, 2025. As I explained at the conference, before I can determine the admissibility of the recordings and transcripts, I need to be sure the recordings were legally made. Accordingly, I direct Enforcement to make a written submission **by 5:00 p.m. on Wednesday, October 1, 2025**, addressing the legality of the recordings and transcripts. The submission should address, among other things, (1) whether the participants in each of the calls were located in two-party states, to the extent Enforcement knows this information; (2) any legal authority for the proposition that a recorded warning played at the beginning of a call is legally sufficient to provide the participants with notice the call is being recorded; and (3) the basis upon which Enforcement believes that any *outgoing* calls from American Funds were legally recorded.

Respondent may respond in writing to Enforcement's submission **by 5:00 p.m. on Friday, October 3, 2025**.

**C. Exhibits Relating to the Credibility of ██████████ ██████████ – CX-27 through CX-29**

Proposed exhibits CX-27 through CX-29 all relate to the credibility of one of the witnesses on Respondent's witness list, ██████████ ██████████. In both his written objections and at the final prehearing conference, Respondent represented he no longer intends to call ██████████ as a witness.<sup>11</sup> As a result, these exhibits are no longer relevant. Accordingly, CX-27 through CX-29 are **EXCLUDED**.

**D. Respondents' Remaining Objections to Enforcement's Proposed Exhibits**

**1. CX-1 and CX-2**

Proposed exhibits CX-1 and CX-2 are both summary exhibits. Respondent argues that both exhibits are "materially inaccurate" because, among other reasons, they do not identify all of the customers who had the authority to direct transactions in the accounts that were affected by the allegedly unauthorized trading.<sup>12</sup>

Enforcement states that CX-1 and CX-2 both "fairly and accurately summarize" the sources that are cited in the exhibits,<sup>13</sup> and it characterizes Respondent's arguments as amounting to an objection that he "would like the summaries to include different information."<sup>14</sup> Enforcement also argues that Respondent may question the witness sponsoring CX-1 and CX-2 about the information he believes is missing from those documents.<sup>15</sup>

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<sup>11</sup> See Respondent's Supp. Objections, at 2.

<sup>12</sup> Respondent's Objections, at 2–3.

<sup>13</sup> Enforcement's Response, at 1.

<sup>14</sup> *Id.* at 2.

<sup>15</sup> *See id.*

## 2. CX-3

Proposed exhibit CX-3 is a spreadsheet that Enforcement describes on its exhibit list as relating to the IP addresses that accessed the American Funds trading platform on February 7, 2022. Respondent objects to the admissibility of CX-3 absent appropriate authentication.<sup>16</sup> Enforcement represents that its witness, Rose Jentz, will authenticate CX-3 at the hearing.<sup>17</sup>

## 3. CX-4

Proposed exhibit CX-4 is a spreadsheet that Enforcement represents reflects the recorded telephone calls that American Funds produced to FINRA.<sup>18</sup> Respondent objects to CX-4 on the ground that the document requires authentication.<sup>19</sup> Respondent also argues CX-4 is incomplete and, therefore, misleading because it does not include all of the telephone calls that American Funds participated in as part of its investigation into the allegedly unauthorized trades.<sup>20</sup>

Enforcement represents that it expects Jentz to authenticate CX-4 at the hearing.<sup>21</sup> Enforcement further argues that Respondent's objection on completeness grounds is unfounded because CX-4 does not purport to list every call that American Funds participated in with Respondent or his customers.<sup>22</sup>

## 4. CX-5

Proposed exhibit CX-5 is a screenshot that Enforcement represents was produced by American Funds.<sup>23</sup> Enforcement describes the screenshot on its exhibit list as relating to Respondent's access to the American Funds trading platform. Respondent objects to CX-5 on the ground that the proposed exhibit requires authentication.<sup>24</sup> He also argues the screen shot "appears to have been altered" with the addition of a "large red arrow" and is allegedly incomplete.<sup>25</sup>

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<sup>16</sup> See Respondent's Objections, at 3.

<sup>17</sup> See Enforcement's Response, at 2.

<sup>18</sup> See Enforcement's Response, at 2.

<sup>19</sup> See Respondent's Objections, at 3–4.

<sup>20</sup> See *id.*

<sup>21</sup> See Enforcement's Response, at 2.

<sup>22</sup> See *id.* at 2–3.

<sup>23</sup> See Enforcement's Response, at 2.

<sup>24</sup> See Respondent's Objections, at 4.

<sup>25</sup> *Id.*

Enforcement states that Jentz will authenticate CX-5 at the hearing.<sup>26</sup> As to Respondent's remaining objections, Enforcement argues they "do not go to admissibility but rather to the weight the Panel should give the" document.<sup>27</sup>

## 5. CX-10

Proposed exhibit CX-10 is a document that Enforcement describes as correspondence from one of Respondent's customers to American Funds. Respondent objects that the document is unreliable and unauthenticated. He argues the document appears to include handwriting from multiple individuals that was "likely added to the document at different times," and also that the document is not sworn and "is somewhat illegible."<sup>28</sup> Respondent also raises questions about the signatures that appear on CX-10.<sup>29</sup>

Enforcement states that Jentz will authenticate CX-10 and that Respondent's other objections to the document go to its weight and not its admissibility.<sup>30</sup>

## 6. CX-24a

Proposed exhibit CX-24a is a Memorandum of Interview, dated September 4, 2025, which relates to an interview that Enforcement conducted with [REDACTED], the former Chief Information Officer ("CIO") for Respondent's firm. Respondent objects to this exhibit on the ground that Enforcement delayed in seeking to amend its exhibit list to include this document.<sup>31</sup>

## 7. CX-26

Proposed exhibit CX-26 is a signed declaration that Enforcement represents was signed by one of Respondent's customers, [REDACTED]. Respondent objects to the exhibit on the grounds that Enforcement allegedly delayed in obtaining [REDACTED] signature, he questions whether FINRA or [REDACTED] drafted the declaration, and he argues it is unfair to admit a declaration like this when he has no ability to cross-examine the declarant.<sup>32</sup>

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With respect to all of these proposed exhibits, I find that Respondent has failed to establish they would be inadmissible for any purpose. Thus, I **DEFER** ruling on the admissibility of these exhibits until the hearing, so that I can assess their admissibility in the proper context.

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<sup>26</sup> See Enforcement's Response, at 2

<sup>27</sup> *Id.* at 3.

<sup>28</sup> Respondent's Objections, at 7.

<sup>29</sup> *See id.*

<sup>30</sup> See Enforcement's Response, at 2–3.

<sup>31</sup> See Respondent's Supp. Objections, at 2.

<sup>32</sup> *See id.* at 3.

## **E. Enforcement’s Objections to Respondent’s Proposed Exhibits**

### **1. RX-3 through RX-5**

Proposed exhibits RX-3 through RX-5 are emails that all relate to an alleged hack of the email system at Respondent’s firm. Enforcement objects to these exhibits primarily on relevance grounds. Although the emails are all dated February 8, 2022, one day after the allegedly unauthorized trades at issue, Enforcement argues the documents suggest the alleged hack occurred more than four months earlier, in September 2021.<sup>33</sup> Enforcement also argues the alleged hack related to the firm’s email system and not to its ability to access the American Funds trading platform.<sup>34</sup> Even if the proposed exhibits are “marginally relevant,” Enforcement argues they should be excluded under Rule 403 of the Federal Rules of Evidence because they “will confuse the issue and mislead the Hearing Panel.”<sup>35</sup> Finally, Enforcement objects to RX-3 on completeness grounds because the email references four attachments that are not part of the proposed exhibit.<sup>36</sup>

Respondent argues the proposed exhibits show the issues resulting from the alleged hack “appear to have not been resolved” by the time of the alleged unauthorized trades.<sup>37</sup> As a result, Respondent argues the exhibits are relevant to the question of whether there may have been a connection between the alleged hack and the allegedly unauthorized trades.<sup>38</sup>

### **2. RX-6 through RX-8**

Proposed exhibits RX-6 through RX-8 relate to former CIO [REDACTED]. RX-6 and RX-8 are both letters, dated October 2022, that include allegations of misconduct against [REDACTED] in his capacity as Secretary of a fraternal organization. RX-7 is an email from Respondent to [REDACTED], dated September 19, 2022, in which Respondent writes he has decided to remove [REDACTED] from “payroll.”

Enforcement objects to these proposed exhibits on relevance grounds. Enforcement argues the alleged misconduct that is described in RX-6 and RX-8 occurred months after the trades at issue and is unrelated to the allegations in the Complaint.<sup>39</sup> With respect to RX-7, Enforcement argues it is unclear whether the proposed exhibit relates to the termination of [REDACTED] relationship with the fraternal organization or with Respondent’s firm.<sup>40</sup>

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<sup>33</sup> See Enforcement’s Objections, at 2.

<sup>34</sup> See *id.*

<sup>35</sup> *Id.* at 3.

<sup>36</sup> See *id.*

<sup>37</sup> Respondent’s Response, at 1.

<sup>38</sup> See *id.*

<sup>39</sup> See Enforcement’s Objections, at 3–4.

<sup>40</sup> See *id.* at 4.

Respondent states that he expects to show at the hearing that [REDACTED] had access to the trading platform through which the allegedly unauthorized trades were placed.<sup>41</sup> As a result, Respondent argues that RX-6 through RX-9 are relevant to establish that [REDACTED] “was a less than trustworthy and honest person” and that [REDACTED], and not Respondent, may have effected the allegedly unauthorized trades.<sup>42</sup>

### 3. RX-9

Proposed exhibit RX-9 is a printout from a website, <https://whatismyipaddress.com>, dated June 17, 2025, which Respondent claims shows the IP address for his computer. Enforcement objects to this proposed exhibit on relevance grounds. Enforcement argues the proposed exhibit is irrelevant because Respondent conducted the search that is reflected on RX-9 more than three years after the relevant events, the exhibit does not show the location from where Respondent conducted the search, and the exhibit suggests Respondent was using a Virtual Private Network when he conducted the search, which, according to Enforcement, is designed to mask a user’s IP address.<sup>43</sup> To the extent RX-9 has any “marginal relevancy,” Enforcement argues it will confuse the issues and mislead the Hearing Panel and should be excluded under Rule 403.<sup>44</sup>

Respondent argues that the IP address shown in RX-9 does not match the IP address for the computer from which the allegedly unauthorized trades were placed.<sup>45</sup> He argues this evidence is relevant to show he did not effect the transactions at issue.<sup>46</sup>

### 4. RX-19

Proposed exhibit RX-19 is an email that appears to be included in the email chains that Respondent has separately marked as proposed exhibits RX-17 and RX-18. Accordingly, Enforcement objects to RX-19 as duplicative of RX-17 and RX-18.

Respondent represents that he does not intend to offer RX-19 into evidence if RX-17 or RX-18 are admitted. However, he states that he may choose to introduce RX-19 instead of RX-17 or RX-18.<sup>47</sup>

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<sup>41</sup> See Respondent’s Response at 2.

<sup>42</sup> *Id.*

<sup>43</sup> See Enforcement’s Objections, at 4.

<sup>44</sup> *Id.* at 5.

<sup>45</sup> See Respondent’s Response, at 3.

<sup>46</sup> See *id.* at 2–3.

<sup>47</sup> See *id.* at 3.

## 5. RX-22

Proposed exhibit RX-22 is a Memorandum of Interview that Enforcement prepared relating to an interview with one of Respondent's customers. Enforcement objects to this proposed exhibit on relevance grounds. Enforcement argues it does not intend to offer the Memorandum of Interview into evidence or ask about it during any witness's testimony. As a result, Enforcement argues the document "is not relevant to any material fact at issue."<sup>48</sup>

Respondent argues the author of the Memorandum of Interview, Ed Quinn, did not participate in the interview.<sup>49</sup> As a result, to the extent that Quinn testifies about this interview at the hearing, Respondent states he may decide to use RX-22 during cross-examination.<sup>50</sup>

## 6. RX-24

Proposed exhibit RX-24 is a signed declaration from [REDACTED], one of the individuals on Respondent's witness list. To the extent [REDACTED] testifies at the hearing, Enforcement objects to the admissibility of RX-24 as unnecessarily cumulative.<sup>51</sup> If [REDACTED] does not testify at the hearing, Enforcement argues Respondent should be required to establish [REDACTED] unavailability and the authenticity of the declaration before it is admitted into evidence.<sup>52</sup>

Respondent agrees that, to the extent [REDACTED] testifies at the hearing, "live testimony, where the witness is subject to cross-examination[,] is superior to relying on a declaration."<sup>53</sup> However, in the event that [REDACTED] "becomes unexpectedly unavailable" at the hearing, Respondent reserves the right to argue why his declaration should be admitted.<sup>54</sup>

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With respect to all of these exhibits, I find that Enforcement has failed to establish they would be inadmissible for any purpose. Thus, I **DEFER** ruling on the admissibility of these exhibits until the hearing, so that I can assess their admissibility in the proper context.

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<sup>48</sup> Enforcement's Objections, at 5.

<sup>49</sup> See Respondent's Response, at 3.

<sup>50</sup> See *id.* at 3-4.

<sup>51</sup> See Enforcement's Objections, at 6.

<sup>52</sup> See *id.*

<sup>53</sup> Respondent's Response, at 4.

<sup>54</sup> *Id.*

### III. Order

For the reasons discussed above, I direct the parties to provide me with additional information regarding exhibits CX-6 through CX-9a and CX-11 through CX-16a. I **EXCLUDE** proposed exhibits CX-27 through CX-29. I **DEFER** ruling on Respondent's objections to CX-1 through CX-5, CX-10, CX-24a, and CX-26. I also **DEFER** ruling on Enforcement's objections to RX-3 through RX-9, RX-19, RX-22, and RX-24.

**SO ORDERED.**

  
Megan P. Davis  
Hearing Officer

Dated: September 30, 2025

Copies to:

Gary A. Carleton, Esq., Carleton Law PLLC for Respondent (via email)  
Justin Arnold, Esq., FINRA Enforcement (via email)  
John R. Baraniak, Esq., FINRA Enforcement (via email)  
Ashley Morris, Esq., FINRA Enforcement (via email)  
Jennifer L. Crawford, Esq., FINRA Enforcement (via email)