

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PARAMVEER SINGH  
(CRD No. 5224401),

Respondent.

Disciplinary Proceeding  
No. 2019064313901

Hearing Officer—RES

**ORDER SUSTAINING RESPONDENT PARAMVEER SINGH'S  
OBJECTION TO THE ADMISSION OF CX-30 INTO EVIDENCE**

The hearing in this disciplinary proceeding was held on April 21-22, 2021. At the end of the hearing, the parties disagreed over the admissibility of Complainant's Exhibit 30 ("CX-30"), which consists of a one-page excerpt of the transcript of Respondent Paramveer Singh's on-the-record testimony ("OTR").

In the pre-hearing phase of the proceeding, the parties initially identified the entire transcript of Respondent's OTR as a hearing exhibit. But in the Final Pre-Hearing Conference ("FPHC"), I informed the parties that I would not admit the OTR transcript in its entirety. I directed that if a party sought to have any excerpt of Respondent's OTR admitted as substantive evidence, that party had to read such excerpt out loud to Respondent in the hearing, so he could clarify or explain his prior testimony.<sup>1</sup> I described these ground rules as follows:

Instead of OTR transcripts, I prefer to have live testimony, thus Respondent's OTR will not be admitted in its entirety into evidence as a substitute for live testimony ... If a party wants to have excerpts of Respondent's OTR treated as substantive evidence, those excerpts should be read out loud to the Respondent in the course of the hearing so he has a chance to explain. And as each party rests its case, it can offer into evidence specific page and line designations of Respondent's OTR testimony that were read out loud to him.<sup>2</sup>

I asked each party if it had any questions about the use of Respondent's OTR in the hearing, and both parties answered, "No."<sup>3</sup>

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<sup>1</sup> Usually, counsel reads one or more excerpts of the prior, OTR testimony to impeach a respondent's hearing testimony, showing that the two are inconsistent. On redirect examination, the respondent's counsel asks questions designed to give the respondent the opportunity to explain the alleged inconsistency.

<sup>2</sup> FPHC Transcript ("Tr.") 19-21.

<sup>3</sup> FPHC Tr. 21.

When the question about the use of Respondent's OTR arose at the end of the hearing, I ordered Respondent to file a written submission explaining his reasons for objecting to CX-30, which he did.<sup>4</sup> Respondent's principal ground for objection is that the Department of Enforcement did not read the contents of CX-30 to Respondent in the hearing as required by my pre-hearing directive, thereby depriving him of the opportunity to clarify or explain his prior testimony.<sup>5</sup>

Enforcement filed a response to Respondent's objection to CX-30. Enforcement contends that Respondent's objection varies from his earlier positions, because (1) in the pre-hearing phase of the proceeding, Respondent was willing to submit the entire transcript as a joint exhibit, and (2) in the hearing, he designated a page of the transcript that was not read to him. Further, Enforcement argues, CX-30 is relevant because the OTR testimony conflicts with Respondent's hearing testimony.

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>6</sup> The Hearing Officer's discretion in this regard is broad.<sup>7</sup> Furthermore, FINRA Rule 9235 provides that the Hearing Officer "shall have authority to do all things necessary and appropriate to discharge his or duties." In this case, I specifically directed the parties to read out loud to Respondent all OTR transcript excerpts that they intended to offer into evidence to provide Respondent with the opportunity to clarify or explain his prior testimony.

Enforcement did not read the contents of CX-30 out loud to Respondent in the hearing. To grant admission of CX-30 at the end of the hearing, after Respondent has finished his testimony, would (1) deprive Respondent of the opportunity to clarify or explain his prior testimony, (2) subject him to unfair surprise, and (3) conflict with the ground rules I set down in the FPHC, effectively moving the goalposts to Respondent's detriment at the end of the hearing. Thus, I find that admission would be unduly prejudicial under FINRA Rule 9263.

For these reasons, Respondent's objection to CX-30 is **SUSTAINED**.

**SO ORDERED.**



Richard E. Simpson  
Hearing Officer

Dated: May 19, 2021

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<sup>4</sup> Respondent's submission was due within one week of receipt of the hearing transcript. Respondent's submission was timely.

<sup>5</sup> CX-30 was not discussed or identified by either party at any point in the hearing.

<sup>6</sup> FINRA Rule 9263(a); *accord Merrimac Corp. Sec., Inc.*, Exchange Act Release No. 86404, 2019 SEC LEXIS 1771, at \*103 (July 17, 2019).

<sup>7</sup> *Dep't of Enforcement v. Braeger*, No. 2015045456401, 2019 FINRA Discip. LEXIS 55, at \*37 (NAC Dec. 16, 2019).

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