UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-21963

In the Matter of **Joseph Andrew Paul,** **Respondent.**	**DIVISION OF ENFORCEMENT'S SUPPLEMENTAL BRIEF IN SUPPORT OF ITS MOTION FOR DEFAULT DISPOSITION AND FOR IMPOSITION OF REMEDIAL SANCTIONS**

In accordance with the Commission's Order Requesting Additional Briefing and Materials, *Joseph Andrew Paul*, Exch. Act Rel. No. 102406 (Feb. 12, 2025) ("Order"), the Division of Enforcement ("Division") submits this supplemental brief and the accompanying exhibits in support of its Motion for Default Disposition and Remedial Sanctions against Respondent Joseph Andrew Paul ("Respondent" or "Paul").

BACKGROUND

On February 12, 2025, the Commission ordered the Division to submit additional material in support of its Motion for Default Disposition and Remedial Sanctions against Paul. *Joseph Andrew Paul*, Exch. Act Rel. No. 102406 (Feb. 12, 2025). Specifically, the Commission stated that that it would "benefit from further development of the evidentiary record—such as materials from the criminal proceeding showing the factual basis of Paul's guilty plea, like his change-of-plea colloquy or plea agreement—and additional briefing addressing the Division's argument as to why sanctions are warranted." *Id.* In addition, the Commission requested that the Division "address each statutory element of the relevant provisions of Section 15(b) of the Exchange Act and Advisers Act Section 203(f)," and "discuss the relevant authority relating to the legal basis and

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appropriateness of the requested sanctions and to include evidentiary support sufficient to make an individualized assessment of whether the requested sanctions are in the public interest." *Id.*

The requested materials were under seal, so in response to the Commission's Order, the Division filed a motion with the district court in *United States v. Ellis, et al.*, No. 2:17-cr-371 (E.D. Pa.) (the "Criminal Action") to unseal the relevant portions of Paul's guilty plea agreement, the plea memorandum filed by the U.S. Attorney's Office for the Eastern District of Pennsylvania ("USAO"), Paul's guilty plea colloquy, and his sentencing allocution. Crim. Dkt. No. 258. On April 4, 2025, the district court in the Criminal Action granted the Division's motion, Crim. Dkt. No. 260, and the Division worked with the court reporter to have the relevant portions of the plea and sentencing hearings transcribed. Attached to the Declaration of Division's counsel are the following materials which supplement the Division's Statement of Facts contained in its Motion for Default Disposition and Remedial Sanctions filed on October 16, 2024: Paul's Plea Agreement in the Criminal Action ("Plea Agmt.") [Ex. 6][1]; Plea Memorandum filed by the USAO in the Criminal Action ("Plea Mem.") [Ex. 7]; the transcript of the factual basis for Paul's guilty plea ("Plea Tr.") [Ex. 8]; and the transcript of Paul's allocution during his sentencing hearing ("Sent. Tr.") [Ex. 9].

As demonstrated below, the facts and admissions set forth in Paul's plea agreement and the transcript of his plea hearing confirm that Paul should be barred from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in an offering of penny stock.

[1] The exhibits attached to the Declaration of Karen M. Klotz, attached hereto as Exhibit A, are sequential with the exhibits to the Division's Motion for Default Disposition and the Imposition of Remedial Sanctions.

SUPPLEMENTAL FACTS FROM RESPONDENT'S GUILTY PLEA AGREEMENT, GUILTY PLEA HEARING, AND SENTENCING HEARING

I. Respondent Agreed to Plead Guilty to Three Counts of Securities Fraud

On or about December 11, 2018, Paul entered into a guilty plea agreement with the USAO in which he agreed to plead guilty to three counts of securities fraud, in violation of Title 18, U.S.C., Section 1348 (Count One) and Title 18, U.S.C., Section 1348, Title 15, U.S.C., Sections 78j(b) and 78fl, and Title 17, C.F.R., Section 240.10b-5 (Counts Two and Three). Plea Agmt. [Ex. 6] at 1. Paul agreed that his securities fraud scheme caused losses exceeding $1.5 million, victimized more than 10 people, and "resulted in substantial financial hardship" for at least one victim investor. *Id.* at 10. Paul further admitted that the offenses to which he was pleading guilty involved a violation of the securities laws and that, at the time he carried out the fraud, he was an investment adviser or was associated with an investment adviser. *Id.* Paul affirmed in the guilty plea agreement that he was pleading guilty to securities fraud because he was, in fact, guilty. *Id.* at 13.

II. Respondent Admitted the Factual Basis Supporting the Securities Fraud Charges

During his plea hearing on December 17, 2018, Paul admitted to the following facts with respect to Count 1:

- Between December 2009 and October 2011, Paul's co-owned registered investment advisory firm, Paul Ellis Investment Associates, LLC ("PEIA"), falsely reported to the Commission that it had $30 million in assets under management, when in fact it never had more than $8 million under management.

- In September and December of 2010, Paul and codefendant John Ellis ("Ellis") met with managers of a trust company to convince them to invest money with PEIA, and falsely represented that PEIA managed investment portfolios in 2008 and 2009 that produced high annual returns, knowing that these statements were false.

- Paul knowingly provided the trust company with falsified written materials that showed PEIA's "Strategic Growth Portfolio" generated returns of 41.7% during 2008, 32.54% in 2009, and 48.55% for the first three quarters of 2010, with minimal risk.

- Paul represented to the trust company that PEIA's "Quantitative Growth Portfolio" had generated returns of 41.37% in 2008, 107.33% in 2009, and 36.10% for the first three quarters of 2010, knowing that this information was false.

- As a result of investing with PEIA, the trust company lost approximately $744,330.

Plea Mem. [Ex. 7] at 3-4; Plea Tr. [Ex. 8] at 3-4.

Counts Two and Three charged Paul and Ells with partnering with James Quay ("Quay"), a disbarred attorney previously convicted of tax fraud, to defraud Quay's clients out of approximately $1,295,000. *See* Plea Agmt. [Ex. 6] at 1; Plea Mem. [Ex. 7] at 1, 3-6. With respect to Counts 2 and 3, Paul admitted the following facts:

- Paul and Ellis falsely represented to Quay that PEIA used a "Volatility Arbitrage Portfolio" to produce the following returns: 2008 - 32.33%; 2009 - 68.05%; 2010 - 40.09%; and 2011 - 22.98%. Quay, along with Paul and Ellis, used these false returns to convince Quay's clients to invest with PEIA.

- Between July 2011 and February 2012, Quay's clients wired a total of approximately $1,295,000 to PEIA. Paul and Ellis only invested approximately $846,000, the vast majority of which they lost.

- In May 2012, Ellis wired $385,900 of investors' funds to Quay. (5) Paul and Ellis used the remining money for themselves, including to pay PEIA business expenses, Paul's and Ellis's salaries, and their personal expenses.

Plea Mem. [Ex. 7] at 5-6; Plea Tr. [Ex. 8] at 4-6.

During the plea hearing, Paul confirmed for the district court that the facts supporting his securities fraud charges were true and accurate:

> THE COURT: Mr. Paul, did you hear what the attorney for the government said the government would show at trial?
>
> MR. PAUL: Yes, I did.
>
> THE COURT: Is that what happened?
>
> MR. PAUL: Yes, it is.
>
> THE COURT: Do you admit to all those facts?
>
> MR. PAUL: Yes, I do.

THE COURT: And did you do what the government says you did?

MR. PAUL: Yes, I did.

Plea Tr. [Ex. 8] at 6-7. Paul also confirmed for the district court that his decision to plead guilty to three counts of securities fraud was made of his own free will. *Id.* at 9.

III. Defendant's Allocution During his Sentencing Hearing

During his sentencing hearing on June 29, 2021, Paul addressed the district court concerning his criminal conduct:

> … I do have to take full responsibility that I hurt a lot of people. And the only thing that I can say is I will do everything to the bottom my heart to make up for everything that happened. I can promise nothing like this will happen again. I -- it's -- it is embarrassing I got to this point, but I just want the Court to know that, again, I am sincerely apologetic. And I'm going to do the best I can to go forward.

Sent. Tr. [Ex. 9] at 3-4. The court sentenced Paul to 34 months in prison and five years of supervised release. The court also ordered Paul to pay restitution of $1,511,931, jointly and severally with Ellis and Quay, and forfeiture in the amount of $790,100. Crim. J. [Ex. 2] at 2-3, 6.

ARGUMENT

I. The Facts Supporting Respondent's Guilty Plea Confirm That Remedial Sanctions Under Section 15(b) of the Exchange Act and Advisers Act Section 203(f) Are Warranted

Paul's conduct carrying out an offering fraud though his investment advisory firm warrants an associational and penny stock bar. Section 15(b)(6) of the Exchange Act and Section 203(f) of the Advisers Act authorize the Commission to bar a person from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization if such a bar is in the public interest and the person (i) was associated with a broker or dealer (Section 15(b)(6)) or an investment adviser (Section 203(f)) at the time of the alleged misconduct and (ii) was convicted within ten years of the commencement of

the proceeding of, among other offenses, a felony involving the purchase or sale of a security. *See* Exchange Act §§ 15(b)(4)(B)(i), 15(b)(4)(C), 15(b)(6); Advisers Act §§ 203(e)(2)(A), 203(e)(4), 203(f). Exchange Act Section 15(b)(6) also authorizes a penny stock bar on these grounds.

The supplemented record— based on Paul's owns admissions— clearly establishes these two elements. Within ten years of the filing of the order instituting an administrative proceeding, *Paul*, Exch. Act. Rel. No. 100323 (June 12, 2024) ("OIP"), Paul was convicted of securities fraud—an offense that necessarily involves the purchase or sale of a security. *See Jeffrey Alan Horn*, Exch. Act Rel. No. 34-102505, 2025 WL 660229, at *3 (Feb. 28, 2025) (holding that securities fraud constituted "an offense involving the purchase or sale of any security"); *Alexander Goldschmidt*, Exch. Act Rel. No. 101622, 2024 WL 4802506, at *3 (Nov. 14, 2024) (same); *Donald S. LaGuardia, Jr.*, Advisers Act Release No. 6739, 2024 WL 4373378, at *2 (Oct. 2, 2024) (same). Moreover, Paul attested in his plea agreement that he was an investment adviser, or was associated with an investment adviser at the time he committed securities fraud. Plea Agmt. [Ex. 6] at 10. He also admitted that PEIA, which he used to operate the fraud, was a registered investment adviser with that was in the business of trading securities. Plea Tr. [Ex. 8] at 3, 6. The threshold requirements for imposing industry and penny stock bars are satisfied.

II. Respondent's Guilty Plea to Securities Fraud Demonstrates that he Knowingly Caried Out a Multi-Year, Egregious Offering Fraud

The facts established by Paul's guilty plea to securities fraud and associated admissions also demonstrate that a bar is in the public interest. The criteria for assessing the public interest are set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd on other grounds,* 450 U.S. 91 (1981). Those factors include: 1) the egregiousness of the respondent's actions; 2) the isolated or recurrent nature of the infraction; 3) the degree of scienter involved; 4) the sincerity of the respondent's assurances against future violations; 5) the respondent's recognition

of the wrongful nature of his conduct; and 6) the likelihood of future violations. *Id.* Each of these factors is satisfied by the facts here.

Paul's conduct was egregious and recurrent. Paul abused the position of trust he occupied as an investment adviser. For nearly two years, Paul repeatedly made misrepresentations to prospective clients to induce them to invest money with PEIA. Plea Mem. [Ex. 7] at 4-6; Plea Tr. [Ex. 8] at 3-6. Paul's firm filed false ADV Forms with the Commission that misrepresented PEIA's assets under management by approximately $22 million. Plea Mem. [Ex. 7] at 5; Plea Tr. [Ex. 8] at 3-4. Paul produced and distributed to prospective investors fictitious investment portfolios that set forth a purported sophisticated investment strategy that generated high returns. Plea Mem. [Ex. 7] at 5; Plea Tr. [Ex. 8] at 4. These fictitious investment portfolios included a description of gains and losses that PEIA's purported investment model had generated. Plea Mem. [Ex. 7] at 5; Plea Tr. [Ex. 8] at 4. Paul's use of these fictitious documents shows a level of foresight, planning, and concealment of his fraud. Paul admitted all of this misconduct.

The restitution order in the Criminal Action indicates that Paul's misconduct caused a loss of over $1.5 million, jointly and severally with Ellis and Quay, to 13 clients. Crim. J. [Ex. 2] at 6, 8. Paul also personally benefited from this scheme. As part of his plea agreement, Paul agreed to forfeit proceeds of $790,100 that he obtained from the securities fraud. Plea Agmt. [Ex. 6] at 8; Crim. J. [Ex. 2] at 8; Plea Tr. [Ex. 7] at 6 (stating that Paul used a portion of investors' finds to personal expenses). His misconduct was egregious and recurrent. *See James C. Dawson*, Adv. Act Release No. 3057, 2010 WL 2886183, at *4 (July 23, 2010) ("[W]e have consistently viewed misconduct involving a breach of fiduciary duty or dishonest conduct on the part of a fiduciary … as egregious."); *see also Ruless Pierre a/k/a Rules Pierre*, Adv. Act. Rel. No. 6863, 2025 WL 821837, at *3 (Mar. 13, 2025) (finding misconduct of investment advisor who abused his position

of trust "by operating two separate fraudulent investment schemes" in which he falsely guaranteed investors unrealistically high returns to be "egregious and recurrent").

Paul also acted with a high degree of scienter. His conviction for securities fraud required a specific intent to defraud. *See* Plea Mem. [Ex. 7] at 3-4 (stating that securities fraud requires that the "defendant acted with an intent to defraud"). To perpetrate the scheme, Paul created and distributed false documents to prospective investors. Plea Mem. [Ex. 7] at 5-6; Plea Tr. [Ex. 8] at 4-6. "This effort to mask his violations of federal securities law demonstrates a high degree of scienter." *SEC v. Desai*, 145 F. Supp. 3d 329, 337 (D.N.J. 2015) (citation omitted).

Paul has not answered the OIP or the Order to Show Cause issued by the Commission, *Jospeh Andrew Paul*, Exch. Act. Rel. No. 101002 (Sept. 12, 2024). By failing to participate in an administrative proceeding,[2] Paul has provided no assurances to the Commission that he would not continue illegal activity if allowed to participate in the securities industry. Paul's guilty plea and apology during his allocution in the Criminal Action do not outweigh the evidence that he poses a risk to the investing public. Paul has a long history in the securities industry dating back to 1999. OIP ¶ II.A.2. He used his position in the industry to take advantage of the investing public and commit an egregious fraud for personal gain. As the facts established by his guilty plea to securities fraud and his associated admissions make clear, Paul is unfit to participate in the securities industry and poses a risk to the investing public. *See James S. Tagliaferri*, Exch. Act Rel. No. 80047, 2017 WL 632134, at *6 (Feb. 15, 2017); *see also Sean Kelly*, Exchange Act Release No. 94808, 2022 WL 1288179, at *4-*5 (Apr. 28, 2022) (barring individual convicted of securities fraud who "misappropriated funds from multiple investors for personal use" and "misled investors

[2] Paul similarly failed to appear or defend the Civil Action. *SEC v. Paul*, No. 16-cv11326, 2023 WL 2562977, at *2 (E.D. Pa. Mar. 17, 2023) [Ex. 4].

by providing them with false account statements that represented that they held investments that had not been made").

CONCLUSION

For the foregoing reasons, and for the reasons set forth in the Division's Motion for Default Disposition and Remedial Sanctions, the Division respectfully requests that the Commission grant Division's Motion for Default Disposition and bar Respondent from association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock.

Philadelphia, Pennsylvania
Dated: May 7, 2025

Respectfully submitted,

[redacted]

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INDEX OF EXHIBITS TO DIVISION OF ENFORCEMENT'S SUPPLEMENTAL BRIEF IN SUPPORT OF ITS MOTION FOR DEFAULT DISPOSITION AND FOR IMPOSITION OF REMEDIAL SANCTIONS

Exhibit	Description
A	Declaration of Karen M. Klotz in support of the Division of Enforcement's Supplemental Brief in support of its Motion for Default Disposition and for Imposition of Remedial Sanctions
6	Guilty Plea Agreement (Dkt. No. 96)(redacted) *USA v. Ellis, et al., 2:17-cr-00371-JHS*
7	Change of Plea Memorandum (Dkt. No. 95)(redacted) *USA v. Ellis, et al., 2:17-cr-00371-JHS*
8	Guilty Plea Hearing (Dkt. No. 261)(unsealed portion) *USA v. Ellis, et al., 2:17-cr-00371-JHS*
9	Sentencing Plea Hearing (Dkt. No. 262)(unsealed portion) *USA v. Ellis, et al., 2:17-cr-00371-JHS*

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CERTIFICATE OF SERVICE

I certify that on May 7, 2025, I caused a copy of the foregoing to be served on Respondent Joseph Andrew Paul via first class U.S. Mail at the address listed below. Respondent reasonably cannot be served electronically because he has not entered his appearance in this matter and has no known email address. Accordingly, he has been served via alternative means in accordance with Rule 150 of the Commission's Rules of Practice.

Mr. Joseph Andrew Paul
[redacted]

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