BEFORE THE

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C.

In the Matter of the Application of

Spartan Capital Securities, LLC, John D. Lowry, and Kim M. Monchik,

For Review of Disciplinary Action Taken by

FINRA

File No. 3-22285

FINRA'S OPPOSITION TO SPARTAN CAPITAL SECURITIES, LLC, JOHN D. LOWRY, AND KIM M. MONCHIK'S SECOND MOTION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE

Michael Garawski
Senior Vice President and
Director – Appellate Group

Andrew Love
Associate General Counsel

Colleen Durbin
Associate General Counsel

FINRA
Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-8816
colleen.durbin@finra.org
nac.casefilings@finra.org

January 29, 2026

BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C.

In the Matter of the Application of

Spartan Capital Securities, LLC, John D. Lowry, and Kim M. Monchik,

For Review of Disciplinary Action Taken by

FINRA

File No. 3-22285

FINRA'S OPPOSITION TO SPARTAN CAPITAL SECURITIES, LLC, JOHN D. LOWRY, AND KIM M. MONCHIK'S SECOND MOTION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE

FINRA opposes the January 22, 2026 motion of Spartan Capital Securities, LLC, John D. Lowry, and Kim Monchik (collectively, "Applicants") for leave to adduce additional evidence. Applicants request that the Commission accept into evidence five FINRA Dispute Resolution Services expungement awards and other related documents. Because Applicants have not established that this evidence is material to this proceeding, the Commission should deny Applicants' motion.

I. BACKGROUND

For nearly six years, Spartan and its two top executive officers, Lowry and Monchik, deliberately flouted their respective duties to file or timely file required amendments to Uniform Applications for Securities Industry Registration or Transfer ("Form U4") and Uniform Termination Notices for Securities Industry Registration ("Form U5") for dozens of Spartan's registered representatives, their supervisors, and firm officers—including themselves—in violation of Article V, Sections 2(c) and 3(b) of FINRA's By-Laws and FINRA Rules 1122 and

OS Received 01/29/2026

2010. Their misconduct encompassed 220 independent disclosure failures; implicated the Forms U4 or U5 of 72 registered representatives; and extended to multiple types of disclosure events—including customer arbitrations, customer complaints, unsatisfied liens, and judgments. Dozens of the events involved Spartan's officers, including its chief executive officer, Lowry, who personally failed to disclose or timely disclose 38 events, and its chief administrative officer (and former chief compliance officer), Monchik, who personally failed to disclose or timely disclose 15 events. Most glaringly, Applicants' failures persisted despite repeated warnings from FINRA that the arbitrations against its officers alleging their involvement in sales practice violations must be disclosed on Forms U4 and U5—yet FINRA's warnings went unheeded.

In a decision dated October 9, 2024, FINRA's National Adjudicatory Council ("NAC") found that from January 2015 through December 2020, Applicants failed to file or timely file required amendments to Forms U4 and U5 for dozens of Spartan's registered representatives, their supervisors, and firm officers—including themselves—in violation of Article V, Sections 2(c) and 3(b) of FINRA's By-Laws and FINRA Rules 1122 and 2010. For this misconduct, the NAC properly imposed appropriately remedial sanctions: a $600,000 fine upon the firm, a two-year suspension in all capacities and a $20,000 fine upon Lowry, and a two-year suspension in all capacities and a $10,000 fine upon Monchik.

On November 4, 2024, Applicants appealed FINRA's final action. The parties completed briefing on March 10, 2025.

II. APPLICANTS' PROPOSED ADDITIONAL EVIDENCE

Applicants seek to introduce FINRA Dispute Resolution Services Expungement Awards in Case Numbers 23-02836, 23-02855, 23-02587, 23-02861, and 23-02682 as well as related Central Registration Depository ("CRD"®) Disclosure Occurrence Composites for Lowry and

Monchik associated with each of the expungement awards.[1] These five expungement awards involved eleven customers that were identified in FINRA's Hearing Panel's decision.[2]

Applicants argue the proposed evidence supports their contention that they acted in "good faith" when they determined that they did not need to disclose these statements of claims filed against Spartan officers, including Lowry and Monchik. Mot. at 5. As set forth below, Applicants are mistaken and FINRA urges the Commission to deny their motion to adduce.

III. ARGUMENT

Rule 452 of the Commission's Rules of Practice states, among other things, that the "Commission may accept or hear additional evidence . . . as appropriate." 17 C.F.R. § 201.452. A motion under Rule 452 must "show with particularity that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence previously." *Id*. Applicants failed to carry their significant burden to meet each of the requirements under Rule 452. The Commission therefore should deny their motion and decline to admit the proposed additional evidence. *See, e.g., Robert D. Tucker*, Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at *33 (Nov. 9, 2012) (denying motion to adduce and holding that "Tucker failed to satisfy either of these requirements [under Rule 452] and we therefore decline to admit

---

[1] On July 29, 2025, Applicants filed a nearly identical motion to adduce several prior expungement awards. Similar to the current motion, Applicants failed to demonstrate the materiality of the evidence they sought to adduce in connection with that motion, and FINRA opposed it. That motion is pending before the Commission.

[2] Applicants' motion states that "[t]hese expungement Awards pertain to eleven customers who were allegedly harmed by the Respondents and were identified in the NAC's Decision[,]" purportedly referring to pages 85-90 of that decision. Motion to Adduce ("Mot.") at 3. However, the references made by Applicants concern the Hearing Panel's decision, not the NAC's. To be clear, it is the decision of the NAC, not the decision of the Hearing Panel, which is FINRA's final action on appeal to the Commission.

them."); *John Edward Mullins*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464, at *37 n.60 (Feb. 10, 2012) (same).

Applicants have not demonstrated that the proposed additional evidence is material. Rule 452 requires a distinctive demonstration that the additional evidence applicants seek to admit will "materially affect the outcome of the proceedings." *Richard A. Holman*, 40 S.E.C. 870, 874 (1961). Applicants, however, have not established with particularity that any of this evidence is material to the findings or sanctions on appeal. Instead, Applicants are trying to introduce evidence to support a manufactured legal standard that does not exist. Applicants maintain that the proposed evidence demonstrates that "Respondents made a good faith determination for each arbitration's statement of claim, and that the Officer Disclosures were not reportable by Lowry, other Spartan Officers, and/or Monchik because independent, FINRA trained expungement Arbitrators found that the allegations were false and/or that Lowry and Monchik were not involved in the alleged investment-related sales practice violation." Mot. at 5.

As an initial matter, we again note that contrary to Applicants' references to "Officer Disclosures," there is no distinct disclosure standard specifically for officers. Form U4 and Form U5 require disclosure of an "investment-related consumer-initiated arbitration" when a registered representative—officer or not—is named as a respondent, and the statement of claim alleges that the registered representative was "involved in one or more sales practice violations," which include failures to supervise.[3] Thus, the plain language of Form U4 and Form U5 requires

[3] The Form U4 Explanation of Terms and the Form U5 Explanation of Terms defines "involved" as "doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act." *See* FINRA, *FormU4 Explanation of Terms*, https://www.finra.org/sites/default/files/AppSupportDoc/p468051.pdf (last visited Jan. 28, 2026).

disclosure when a statement of claim alleges that a named respondent has failed to supervise. Because the statements of claim at issue clearly alleged that Spartan's officers, including Lowry and Monchik, failed to supervise specific broker(s) who engaged in sales practice violations, there is no question that these arbitrations should have been disclosed—regardless of whether Applicants later obtained an award of expungement relief.

Furthermore, the Forms U4 and U5 disclosure requirements are **allegation driven**—meaning that it is the allegation of involvement in a sales practice violation in the statement of claim, which includes a failure to supervise, that triggers the obligation to disclose—and not whether Applicants believe those allegations lack merit.[4] Indeed, Applicants were well aware that disclosures were allegation driven. During the relevant period, FINRA's Disclosure Review Group ("Disclosure Review") occasionally sent written communications to Applicants about disclosures of arbitrations alleging Spartan's officers failed to supervise. Consistent with its practice, when Spartan inquired about its obligation to report such arbitrations, Disclosure Review responded by directing the firm to the Interpretive Questions and Answers guidance. For example, on March 7, 2019, Disclosure Review referred Spartan to the Form U4 and Form U5 Explanation of Terms, specifically the definition of "involved" as including "failing

[4] The plain language of Form U4 and Form U5, together with the defined terms and the Form U4 FAQ, obligates persons to disclose an arbitration that makes an allegation of a failure to supervise a broker allegedly engaged in sales practice violations. In Q4 on page 7 of the Form U4 FAQ hypothetical, the branch manager who allegedly "should have been overseeing the broker's activities," is required to report the arbitration because not only is he a named respondent, but because the statement of claim alleges that he failed to supervise. *See* FINRA, *Form U4 and U5 Interpretive Questions and Answers*, https://www.finra.org/sites/default/files/Interpretive-Guidance-final-03.05.15.pdf (last visited Jan. 28, 2026).

reasonably to supervise another in doing an act," and advised Spartan that the Form U4 disclosure question for arbitrations "is allegation driven." RP at 21735.[5]

As Applicants know, and as the NAC noted in its decision, an individual is not without recourse to address potentially false or misleading arbitration claims. NAC Decision at 22, n.27. Such a person can seek to have the disclosure expunged from the CRD if the allegations are determined to be factually impossible or clearly erroneous. *See* FINRA Rule 2080(b)(1) (expungement is available when "the claim, allegation, or information is factually impossible or clearly erroneous"; "the registered person was not involved in the alleged investment-related sales practice violation…"; or "the claim, allegation, or information is false."). That is what Applicants accomplished through the expungement process—resulting in the awards they point to in their motion. That expungement, however, by no means absolved Applicants of their obligations to disclose the statements of claims that alleged Lowry and Monchik's failures to supervise in the first instance. Even if a statement of claim is eventually expunged, the initial requirement to disclose the allegations still stands. *Cf. Jason A. Craig*, Exchange Act Release No. 59137, 2008 SEC LEXIS 2844, at *12 (Dec. 22, 2008) ("[s]ubsequent expungement after the filing of the Form U4 is inconsequential because the question presented is the status of his conviction on the date he made the representations on the Form U-4."). The proposed new evidence, which does nothing more than show that Lowry and Monchik successfully obtained expungement awards in eleven out of more than 50 disclosure events they failed to disclose or timely disclose, years after the claims underlying those disclosure events were made, is immaterial.

[5] "RP" refers to the record page number in the certified record filed with the Commission on November 19, 2024.

IV. CONCLUSION

Applicants have failed to meet their burden under Rule 452 of the Commission's Rules of Practice as they have not established the materiality of the proposed evidence. The Commission should deny Applicants' second motion to adduce additional evidence and decline to admit any of the evidence into the record for this matter.

Respectfully submitted,

/s/ *Colleen Durbin*

Colleen Durbin
Associate General Counsel
FINRA
1700 K Street, NW
colleen.durbin@finra.org
nac.casefilings@finra.org

January 29, 2026

CERTIFICATE OF COMPLIANCE

I, Colleen Durbin, certify that this FINRA's Opposition to Applicants' Second Motion for Leave to Adduce Additional Evidence complies with the Commission's Rules of Practice by omitting or redacting any sensitive personal information described in Rule of Practice 151(e).

Respectfully submitted,

/s/ *Colleen Durbin*
Colleen Durbin
Associate General Counsel
FINRA
1700 K Street, N.W.
Washington, D.C. 20006
colleen.durbin@finra.org
nac.casefilings@finra.org

CERTIFICATE OF SERVICE

I, Colleen Durbin, certify that on January 29, 2026, I caused a copy of the foregoing Opposition to Applicants' Second Motion for Leave to Adduce Additional Evidence In the Matter of the Application of Spartan Capital Securities, LLC, Lowry & Monchik, Administrative Proceeding File No. 3-22285, to be filed through the SEC's eFAP system on:

Vanessa Countryman, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

and served by electronic mail on:

Michael H. Ference
Richard J. Babnick Jr.
Thomas P. McEvoy
Sichenzia Ross Ference Carmel LLP
1185 Avenue of the Americas, 31st Floor
New York, New York 10036
mference@srfc.law
rbabnick@srfc.law
tmcevoy@srfc.law

Respectfully submitted,

/s/Colleen Durbin

Colleen Durbin
Associate General Counsel
FINRA
1700 K Street, NW
Washington, DC 20006
(202) 728-8816
colleen.durbin@finra.org
nac.casefilings@finra.org