BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC

In the Matter of the Application of

Mark Sam Kolta

For Review of Disciplinary Action Taken by

FINRA

Administrative Proceeding File No. 3-22626

REPLY TO MARK KOLTA'S OPPOSITION TO FINRA'S MOTION TO DISMISS THIS PROCEEDING AS ABANDONED AND STAY THE BRIEFING SCHEDULE

Michael Garawski
Senior Vice President and
Director – Appellate Group

Andrew Love
Associate General Counsel

Lisa Jones Toms
Associate General Counsel

FINRA
Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-8044
lisa.toms@finra.org

July 21, 2026

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Pursuant to SEC Rules of Practice 154(b) and 180,[1] FINRA submits this reply brief in response to Mark Kolta's Opposition to FINRA's Motion to Dismiss this Proceeding as Abandoned and Stay the Briefing Schedule ("Opposition"). Kolta admits that he failed to file a brief in support of his application for review within the requisite timeframe ordered by the Commission. He expended no effort to seek an extension of time to cure his default and ignored FINRA's requests for the whereabouts of his brief. Only after FINRA moved to dismiss this proceeding as abandoned did Kolta file a purported brief, more than three weeks after it was due. Kolta fails to adequately explain his failure to act timely and diligently in filing an opening brief after FINRA inquired about it.

To make matters worse, Kolta's late-filed submission fails in numerous ways to comport with the requirements of the Commission's Rules of Practice. Kolta's actions, if successful, prejudice FINRA by causing an unnecessary drain on limited staff resources and undermines FINRA's shared interest in facilitating the finality of its decisions by encouraging parties to act

[1] 17 C.F.R. § 201.154(b); 17 C.F.R. § 201.180.

timely in seeking relief. The Commission should follow established precedent and dismiss this proceeding.

On or about April 13, 2026, Kolta—through counsel—filed an application for review with the Commission. RP 26481-87.[2] Kolta's application for review contained his counsel's mailing and email addresses. RP 26486. On April 14, 2026, the Commission's Office of the Secretary issued a letter to the parties acknowledging receipt of Kolta's appeal ("Acknowledgment Letter"). RP 26489-90. The Acknowledgment Letter stated, among other things, that the Commission "will issue a scheduling order" within 21 days of FINRA filing the certified record in this proceeding and that "Commission review proceedings are conducted in accordance with the Rules of Practice," and it directed the parties to Rule of Practice 450, which requires that "briefs provide specific references to the certified record." RP 26489-90. Kolta does not allege that he did not receive the Acknowledgment Letter.

On May 15, 2026, the Commission issued an Order Scheduling Briefs ("Scheduling Order"). The Scheduling Order directed Kolta to file a brief in support of the application for review by June 15, 2026. Kolta had four weeks to file an opening brief, but he failed to do so. Because Kolta did not file his brief by the required June 15 deadline, on June 18, 2026, FINRA emailed and called Kolta's counsel to inquire about his opening brief. Kolta did not respond to FINRA's outreach[3] and on July 9, 2026, FINRA moved to dismiss this proceeding. That same

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[2] "RP __" refers to the page numbers in the certified record filed by FINRA on June 3, 2026.

[3] *See* FINRA Mot. to Dismiss, at 3 note 3. In his Opposition, Kolta claims that after FINRA contacted him on June 18, his counsel "returned the call and left a voicemail." Opp. at 8 (references to "Opp. __" are to "Mark Kolta's Opposition to FINRA's Motion to Dismiss this Proceeding as Abandoned and Stay the Briefing Schedule," dated July 16, 2026). Kolta, however, does not state with whom he left a voicemail and FINRA Appellate staff has no record of receiving a voicemail from Kolta's counsel.

day, but several hours after FINRA filed its motion to dismiss, Kolta informed FINRA via email that he had just filed an attached document purporting to be an opening brief.[4]

In accordance with Rule of Practice 180(c), "[t]he Commission . . . may . . . dismiss one or more claims . . . at issue against that person . . . if a person fails . . . [t]o make a filing required under these Rules of Practice."[5] Rule of Practice 450(b) sets forth the requirements for the contents of an appellate brief filed with the Commission and namely requires that briefs state "succinctly" each exception to the findings or conclusions being reviewed, and that each exception "be supported by citation to the relevant portions of the record, including references to the specific pages relied upon, and by concise argument including citation of such statutes, decisions and other authorities as may be relevant."[6]

Kolta has failed in his duty to comply with the requirements of the Rules of Practice. Kolta is not *pro se* but is represented by experienced counsel. Yet, Kolta admits that he failed to file a brief supporting his application for review by the deadline established by the Scheduling Order,[7] he neglected to ask the Commission for an extension of time *before* filing his belated submission,[8] and he has not clearly explained the reason for his failure to timely file a required brief or act diligently in connection with pursuing his appeal.

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4 The document Kolta attached to his July 9 email to FINRA referenced, but did not include, 11 exhibits. FINRA did not receive a copy of Exhibits 1 through 11 until July 16, 2026, the day Kolta filed his Opposition to FINRA's motion to dismiss.

5 *See* 17 C.F.R. § 201.180(c).

6 17 C.F.R. § 201.450(b).

7 Opp. at 2 ("Kolta's opening brief was not filed by the June 15, 2026 deadline.").

8 *See* 17 C.F.R. § 201.161(a) (providing that the Commission may, "for good cause shown," extend the time limit for the filing of any papers).

In his Opposition, Kolta claims that he did not receive the certified mailing of the Scheduling Order "until July," which was after the June 15, 2026 deadline. Opp. at 2. But even if true, Kolta's claim raises more questions than it answers. Kolta fails to explain (1) whether he received electronic service of the Scheduling Order through the Electronic Filings in Administrative Proceedings ("eFAP") system (that FINRA received on May 15, 2026) to the email address Kolta's counsel provided in his notice of appeal;[9] (2) why he did not check the Commission's website for any scheduling order after the Acknowledgment Letter put him on notice in mid-April 2026 that the Commission would issue a scheduling order within 21 days, and the Scheduling Order was in fact posted on the Commission's website beginning on May 15, 2026; or (3) why he ignored FINRA's outreach requesting a copy of the brief made via telephone and email on June 18, 2026—just three days after the brief was due—and failed for more than three weeks to take any action in connection with his appeal.[10]

In light of these facts and unanswered questions, at a minimum, Kolta had notice in mid-April that a scheduling order was imminent and he had actual notice that he had missed his

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[9] *See Amendments to the Commission's Rules of Practice*, Exchange Act Release No. 90442, 85 Fed. Reg. 86,464 (Dec. 30, 2020) (addressing the electronic service of documents by the Commission upon the parties to a proceeding, and emphasizing that "[s]ervice of documents by the Office of the Secretary of the Commission upon participants in the proceeding will be done through the eFAP system and routed to the participant's email address of record."). Kolta does not assert that he did not receive an electronic copy of the Scheduling Order.

[10] In his Opposition, Kolta contradicts himself in attempting to state why his brief was untimely filed. First, Kolta claims he did not receive the Scheduling Order until "July," after he received it by certified mail. Opp. at 2. Then later, he admits that he did receive FINRA's communications about the whereabouts of his brief, *made several weeks earlier*, and retorts that he purportedly returned FINRA's telephone call and left a voicemail. Opp. at 8. The Commission should find that neither version of his stories excuses his lateness. It is clear that Kolta knew that his brief was well overdue at least since June 18, 2026, when FINRA contacted him. Yet, without stating a valid reason, he waited—and made all parties involved wait—until after FINRA filed its motion to dismiss to attempt to cure his untimeliness by filing a submission that fails to comply with the Commission's Rules of Practice and raises numerous issues for the first time.

deadline to file a brief as of June 18, 2026. Yet, Kolta still waited for more than three weeks to take any action. The Commission should reject Kolta's characterization of his delays as "not beyond what is reasonable,"[11] and he has offered no good cause to excuse his failure to act in a timely or diligent fashion.[12] *Pennmont Sec., et al.*, Exchange Act Release No. 61967, 2010 SEC LEXIS 1353, at *18-19 (Apr. 23, 2010) ("Even when circumstances beyond the applicant's control give rise to the delay, however, the applicant must also demonstrate that he or she promptly arranged for the filing . . . as soon as reasonably practicable thereafter").

Moreover, the more-than-three-weeks-late submission that Kolta's counsel eventually filed with the Commission is woefully deficient. Therefore, and on this basis alone, the Commission should reject it. In adopting the Rules of Practice, the Commission has made clear that, "[u]nder Rule 450, the obligation to support claims made in a brief lies with the person submitting the brief." *Adopting Release, Rules of Practice*, Exchange Act Release No. 35833, 60 Fed. Reg. 32738, 32778 (June 23, 1995).

Here, Kolta's submission makes no exceptions to the NAC's findings or conclusions despite Rule of Practice 450(b)'s requirement that "[e]ach exception to the findings or conclusions being reviewed shall be stated succinctly." In addition, Kolta's submission provides no argument with citations to legal authority and the "relevant portions of the [certified] record," including "the specific pages relied upon," as required under Rule of Practice 450(b).[13] Instead,

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11 *See* Opp. at 3.

12 Kolta's Opposition references a variety of general—but ultimately irrelevant—principles on abandonment and dismissals in court proceedings. Opp. at 3-8. None of these cases, however, exempts Kolta from the Commission's requirement that he file a timely opening brief or prevents the Commission from dismissing this case for his failure to adhere to its procedural requirements.

13 17 C.F.R. § 201.450(b).

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Kolta's submission makes vague assertions about random documents that he references as exhibits, most of which he failed to request leave to adduce as additional evidence in the record,[14] and introduces complaints about miscellaneous events that occurred during the Hearing Panel stage of the proceedings that he never raised in the first instance before the NAC.[15] *See* RP 26338-41 (raising in respondent's appellate brief before the NAC the sole procedural argument that FINRA erred in declining to further postpone the rescheduled hearing, RP 26340, and not challenging any substance of the Hearing Panel's findings nor raising any constitutional arguments). The Commission previously has granted FINRA's motion to dismiss in a similar fact pattern where the applicant had failed to file an opening brief timely and later made a deficient filing. *See Robert D. Tucker*, Exchange Act Release No. 71972, 2014 SEC LEXIS 1370, at *4-5 (Apr.18, 2014) (dismissing a review proceeding where a barred respondent's late submission "provide[d] no citations to the record," and included no arguments, and only made vague, unsupported references to "inaccurate assertions" and "fabricated events"). So too is the case here.

"[I]t is not enough merely to mention a possible argument in the most skeletal way, leaving the court to do counsel's work." *Davis v. Pension Ben. Guar. Corp.*, 734 F.3d 1161, 1166-67 (D.C. Cir. Nov. 1, 2013) (internal quotation marks and citations omitted). And we agree with Kolta that, "dismissal is appropriate against a party who disregards [adjudicatory] orders and fails to proceed as required by [an adjudicator's] rules." Opp. at 5. Kolta failed to

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14 *See* 17 C.F.R. § 201.452 ("Additional evidence"). None of Exhibits 1 through 11 to Kolta's submission are bate-stamped and thus are not excerpts from the certified record filed with the Commission. Exhibits 5 through 11 appear to be entirely new evidence that is not part of the certified record.

15 *See, e.g.*, *William H. Murphy & Co., Inc.*, Exchange Act Release No. 90759, 2020 SEC LEXIS 5218, at *40 (Dec. 21, 2020) ("[I]t is the decision of the NAC, not the decision of the Hearing Panel, that is the final action of [FINRA] which is subject to Commission review.") (citations omitted).

file a required opening brief that complies with the Rules of Practice. Instead, he filed an untimely submission that makes no cognizable arguments upon which the Commission can base its review or to which FINRA can brief in opposition. *Cf. Trautman Wasserman & Co., Inc., et. al.*, Exchange Act Release No. 55989, 2007 SEC LEXIS 1408, at *11 note 15 (June 29, 2007) (finding arguments that fail to articulate legal theories, cite relevant legal authority, or marshal relevant facts, and that introduce "copious amounts of extraneous materials as exhibits" to be "tactics [that] are not an appropriate use of the Commission's adjudicatory process").

It is certainly within the Commission's purview to "insist that parties comply with procedural rules that promote the just, orderly, and efficient disposition of administrative review proceedings," *John Thomas Cap. Mgmt. Grp. LLC, et al.*, Exchange Act Release No. 74100, 2015 SEC LEXIS 257, at *3-4 (Jan. 20, 2015), and to dismiss proceedings when an appellant neglects their duty. As the Commission has routinely held, "strict compliance with filing deadlines facilitates finality and encourages parties to act timely in seeking relief." *See, e.g.*, *Nancy Kimball Mellon*, Exchange Act Release No. 97623, 2023 SEC LEXIS 1440, at *6 (May 31, 2023). FINRA shares the Commission's interest of ensuring orderly proceedings and administrative efficiencies. We therefore respectfully ask that the Commission find that Kolta's submission is untimely and woefully deficient and grant FINRA's motion to dismiss.

Respectfully submitted,

[redacted]

Lisa Jones Toms
Associate General Counsel
FINRA – Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-8044
lisa.toms@finra.org
nac.casefilings@finra.org

July 21, 2026

CERTIFICATE OF COMPLIANCE

I, Lisa Jones Toms, certify that the foregoing Reply to Mark Kolta's Opposition to FINRA's Motion to Dismiss this Proceeding as Abandoned and Stay the Briefing Schedule (File No. 3-22626) 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,

[redacted]

Lisa Jones Toms
Associate General Counsel
FINRA – Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-8044
lisa.toms@finra.org
nac.casefilings@finra.org

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CERTIFICATE OF SERVICE

I, Lisa Jones Toms, certify that on this 21st day of July 2026, I caused a copy of the Reply to Mark Kolta's Opposition to FINRA's Motion to Dismiss this Proceeding as Abandoned and Stay the Briefing Schedule concerning In the Matter of the Application of Mark Sam Kolta, Administrative Proceeding File No. 3-22626, to be filed through the SEC's eFAP system with

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

and to be served by electronic mail on:

Tosh Grebenik, Esq.
Judex Law, LLC
[redacted]
tosh@judexlaw.com

Respectfully submitted,

[redacted]

Lisa Jones Toms
Associate General Counsel
FINRA – Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-8044
lisa.toms@finra.org
nac.casefilings@finra.org

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