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

In the Matter of the Application of

SEAN PONG,

Applicant / Petitioner.

Administrative Proceeding File No. 3-22639
FINRA AWC Matter No. 2021072053201

APPLICANT SEAN PONG'S MOTION TO SUPPLEMENT THE CERTIFIED RECORD WITH NEWLY IDENTIFIED MATERIAL EVIDENCE

Sean Pong, Pro Se
[redacted]
June 2026

PRELIMINARY STATEMENT

Applicant Sean Pong, appearing pro se, respectfully moves this Commission pursuant to Rule of Practice 452, 17 C.F.R. § 201.452, and the Commission's inherent authority to ensure a complete and accurate record, to supplement the certified record in this proceeding with three documents that are material to the Commission's review of the FINRA action imposing a lifetime bar upon Applicant. These documents could not have been submitted during the FINRA proceeding due to circumstances beyond Applicant's control — specifically, the failures and abandonment of prior counsel — and are directly relevant to the central issues before this

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Commission: the voluntariness of the AWC, the completeness of the record upon which FINRA acted, and the fairness of the disciplinary process.

The three documents sought to be added are: (1) medical records from Kaiser Permanente dated June 24, 2021, documenting Applicant's diagnosis of Major Depressive Disorder, Recurrent Episode, Severe, with Uncontrolled Symptoms; (2) an email from Applicant's former counsel Samantha Pastor dated May 24, 2023, demanding a $6,000 retainer replenishment by end of day or withdrawing as counsel — one day before Applicant signed the AWC without representation; and (3) an email from Ms. Pastor dated March 13, 2023, expressing reluctance to submit exculpatory evidence to FINRA and failing to do so. Each document goes to the heart of whether the AWC before this Commission represents a fair, voluntary, and accurately-grounded resolution.

JURISDICTION AND AUTHORITY

The Commission has jurisdiction over this proceeding pursuant to Section 19(d) and (e) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78s(d) and (e), which authorizes the Commission to review final disciplinary actions taken by a registered national securities association. The Commission's Rules of Practice, 17 C.F.R. § 201.100 et seq., govern the conduct of this proceeding.

Rule of Practice 452, 17 C.F.R. § 201.452, provides that the Commission may, upon motion, permit the introduction of additional evidence where such evidence is material and where there were reasonable grounds for failure to adduce such evidence previously. The Commission also retains broad authority to ensure the record before it is complete and accurate, particularly where the deficiencies in the record are attributable to counsel's failures rather than the applicant's own conduct.

BACKGROUND

A. The FINRA Proceeding and the AWC

On August 6, 2021, U.S. Bancorp Investments, Inc. ("USB") discharged Applicant and filed a Form U5 alleging that he violated FINRA Rule 3270 by failing to disclose an Outside Business Activity ("OBA"). USB's July 14, 2021 FINRA 4530 referral was the predicate trigger for the FINRA investigation.

On May 26, 2023, Applicant signed a Letter of Acceptance, Waiver, and Consent ("AWC") resolving a FINRA Rule 8210 charge. (R. 000001-000004). The AWC imposed a permanent bar from the securities industry — FINRA's most severe sanction.

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Critically, FINRA's own Associate General Counsel Michael Garawski confirmed in writing on April 2, 2026, that the AWC "does not concern any alleged unapproved outside business activities." (R. 000149-000150). FINRA has therefore disavowed the very predicate allegation that triggered the investigation and that USB's Form U5 continues to assert as the reason for Applicant's termination.

B. The Certified Record Before the Commission

FINRA filed its Notice of Appearance and Certified Index to the Record on May 26, 2026, through Associate General Counsel Celia Passaro. (R. 000205-000226). The Certified Index reflects the documents that were before FINRA when it imposed the lifetime bar. That record is materially incomplete because Applicant's prior counsel failed to submit critical exculpatory evidence — including the evidence sought to be added by this Motion.

The SEC acknowledged receipt of Applicant's Application for Review on May 12, 2026. (R. 000281). This Motion is filed prior to the issuance of the Commission's Scheduling Order so that the supplemental evidence may be included in the record available to the Commission when it considers the merits of Applicant's brief.

C. Prior Counsel's Failures That Caused the Record's Incompleteness

Applicant retained the law firm AdvisorLawyer (Samantha Pastor, Esq.) to represent him in the FINRA proceeding. Ms. Pastor's representation was fundamentally deficient in ways that directly caused the incomplete record now before this Commission:

- Ms. Pastor received exculpatory evidence — including the California Unemployment Insurance Appeals Board ruling by Administrative Law Judge Benjamin Kim finding no willful misconduct — and expressly refused to submit it to FINRA. Her March 13, 2023 email to Applicant states her reluctance to provide the ALJ ruling as support because it "implies that you knowingly incorporated the business in 2019." This reasoning was factually incorrect and legally indefensible. The evidence was not submitted.
- On May 24, 2023 — one day before FINRA Principal Counsel Maureen Mueller emailed Applicant to confirm that Ms. Pastor no longer represented him — Ms. Pastor sent Applicant an ultimatum: replenish the retainer by $6,000 by end of day or she would withdraw as counsel. Applicant could not meet this demand. Ms. Pastor withdrew, leaving Applicant unrepresented at the most critical moment in the proceeding.
- As a direct result of Ms. Pastor's withdrawal, Applicant was without legal counsel when he received Mueller's May 25, 2023 email. He signed the AWC on May 26, 2023 — without any attorney — after FINRA's own Principal Counsel made oral representations that the AWC would not bar him from registering as a Registered Investment Advisor with the SEC. Those representations were false and directly contradicted by the AWC's own terms.

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The three documents sought to be added by this Motion document these failures and their direct consequences. They could not have been submitted during the FINRA proceeding because: the Kaiser medical records were not assembled as legal evidence until this proceeding; and the Pastor emails were not recognized as critical legal evidence until Applicant, proceeding pro se, identified their significance in preparing this Application for Review.

THE THREE DOCUMENTS SOUGHT TO BE ADDED

Document 1: Kaiser Permanente Medical Records — June 24, 2021

On June 24, 2021, Applicant was seen by Dr. Priyanka Mukund Deshmukh, M.D. at Kaiser Permanente, 12501 Imperial Highway, Suite 400, Norwalk, CA 90650. Dr. Deshmukh diagnosed Applicant with:

MAJOR DEPRESSIVE DISORDER, RECURRENT EPISODE, SEVERE

Reason for Off Work: Uncontrolled Symptoms

Dr. Deshmukh placed Applicant off work from June 24, 2021 through July 8, 2021. On the same day — June 24, 2021 — Applicant's medical work slip was electronically transmitted from Karen D. Cavazos (Kaiser) to Applicant's USB email at seanpong1@gmail.com, and USB HR representative Charla J. Ray forwarded it to David S. Berger, Ashley N. Vidal, and Wendy Johnson 'Projects' A — the precise USB managers involved in Applicant's termination.

USB terminated Applicant on August 6, 2021 — just 43 days after receiving documentation of his severe Major Depressive Disorder diagnosis with uncontrolled symptoms.

Why This Evidence Is Material

The Kaiser medical records are material to this proceeding for three independent reasons:

1. GROUND FOR AWC VACATUR — MEDICAL DURESS: The AWC was signed on May 26, 2023. An agreement is not voluntary when signed by a party suffering from clinically documented severe Major Depressive Disorder with uncontrolled symptoms, under financial duress (destitute after discharged from USB), and without legal representation. The Restatement (Second) of Contracts §§ 174-176 provide that contracts entered into under duress — including the extreme emotional and financial distress documented here — are voidable. The Kaiser records are the clinical foundation of this argument.
2. DISPROPORTIONATE SANCTION — CONTEXT: FINRA Rule 8210 cases involving unrepresented respondents who are suffering from severe psychiatric illness at the time of alleged non-cooperation must be considered in that context. The Commission's review of

the proportionality of a lifetime bar must account for the documented medical condition affecting Applicant's capacity to meaningfully engage with the FINRA process.

3. USB'S FMLA/CFRA AND ADA/FEHA VIOLATIONS — RELEVANT TO U5 CHALLENGE: USB received documentation of Applicant's severe MDD on June 24, 2021, and terminated him 43 days later. This timeline is directly relevant to whether USB's stated OBA reason for termination was legitimate or pretextual — which in turn is relevant to whether the false U5 predicate referral that triggered the FINRA investigation was made in good faith.

Document 2: Attorney Pastor Email — May 24, 2023

On May 24, 2023 — one day before FINRA Principal Counsel Mueller emailed Applicant confirming that Pastor no longer represented him — Attorney Samantha Pastor sent Applicant the following ultimatum by email:

> *"We cannot continue our representation without funds in your retainer. You currently have a negative balance of approximately $1,300. To cover this negative balance and ensure there are enough funds in your retainer for us to represent you at the OTR, we will need a replenishment of $6,000, paid in full by EOD tomorrow. Please confirm if you will be continuing with the OTR and are able to make this payment. Otherwise, we will be withdrawing as counsel, and you can proceed to the OTR on your own or with another attorney retained by you."*

The subject line of this email reads: "RESPONSE REQUIRED by Thursday 5/25/23 re: OTR Representation." The email is dated May 24, 2023 at 2:31:57 PM PDT. It was copied to Samantha Pastor's Team and Tad Burton at AdvisorLawyer.

Why This Evidence Is Material

1. EXPLAINS AWC WITHOUT COUNSEL: This email is the direct and proximate cause of Applicant being unrepresented when he signed the AWC. It establishes the precise sequence: Pastor's withdrawal demand (May 24) → Mueller's email confirming Pastor withdrew (May 25) → Applicant signs AWC without counsel (May 26). Without this document, the Commission lacks the full picture of how Applicant came to be unrepresented at the critical moment.
2. ATTORNEY ABANDONMENT: The email demonstrates that Applicant did not voluntarily choose to proceed without counsel — he was forced into that position by his attorney's sudden withdrawal demand the day before the second OTR. This is a critical distinction. An applicant who chooses to proceed pro se stands in a different position than one who was abandoned by counsel at the eleventh hour.
3. FINANCIAL DURESS DOCUMENTED: The email confirms Applicant had a negative retainer balance — documenting the financial destitution that formed a critical

component of the duress surrounding the AWC signing. This corroborates Applicant's representations about his financial condition.

4. MISREPRESENTATION CONTEXT: FINRA's own Principal Counsel Mueller, knowing that Applicant had no attorney (as confirmed by her May 25 email), proceeded to schedule the second OTR and accepted Applicant's AWC signature the next day. The Pastor email establishes the timeline that makes Mueller's conduct particularly troubling.

Document 3: Attorney Pastor Email — March 13, 2023

On March 13, 2023, Attorney Pastor sent Applicant the following email in response to his forwarding of the ALJ Benjamin Kim ruling (Case No. 7112258, May 17, 2022):

> *"Hi Sean, Thank you for sending this over. I am concerned about providing it as support for your case because it implies that you knowingly incorporated the business in 2019, rather than Socha doing it without your knowledge. Can you explain?"*

The subject line reads: "Re: [SBP] Judge's Decision." The email is dated March 13, 2023 at 1:19:10 PM PDT. The ALJ Kim ruling — which found no willful misconduct and awarded Applicant unemployment benefits after a full hearing at which USB appeared — was never submitted to FINRA by Ms. Pastor.

Why This Evidence Is Material

1. INCOMPLETE RECORD — EXCULPATORY EVIDENCE WITHHELD: The ALJ Kim ruling is among the most important exculpatory evidence in this entire case. An independent California judicial officer found — after a full evidentiary hearing where USB appeared — that Applicant's failure to report the 2019 incorporation "is attributable to negligence, rather than deliberate avoidance of the employer's policy." This evidence was in Applicant's possession and was forwarded to counsel. Counsel's decision not to submit it — based on a factually incorrect reading of the ruling — left a material gap in the record before FINRA.
2. ATTORNEY MALPRACTICE — CAUSATION: The email establishes not just that the exculpatory evidence was withheld, but why. Ms. Pastor misread the ruling as harmful when it was in fact powerfully exculpatory. This misreading — and the resulting failure to submit — was the direct cause of the incomplete record upon which FINRA imposed the lifetime bar.
3. COMPLETE RECORD BEFORE THE COMMISSION: The Commission reviews FINRA disciplinary actions to ensure they are consistent with the Exchange Act and the public interest. A review based on a record that is missing the most powerful independent evidence of Applicant's lack of willful misconduct cannot constitute the full and fair review the statute requires. Adding this email — which documents why the ALJ ruling was withheld — gives the Commission the complete picture it needs.

4. NEWLY DISCOVERED IN THE LEGAL SENSE: Although the email itself existed in March 2023, its legal significance as evidence of attorney malpractice causing an incomplete record was not recognized or identified until Applicant, proceeding pro se in this Commission proceeding, assembled the full chronology of his prior counsel's failures. This constitutes newly discovered evidence within the meaning of Rule 452.

LEGAL STANDARD FOR SUPPLEMENTATION

Rule of Practice 452, 17 C.F.R. § 201.452, provides that the Commission may permit introduction of additional evidence if a party demonstrates that (1) the evidence is material, and (2) there were reasonable grounds for failure to adduce it in the proceeding below. Both prongs are satisfied here.

A. The Evidence Is Material

Evidence is material if there is a substantial likelihood that the Commission, upon consideration of the complete record, would reach a different or more favorable result. All three documents meet this standard:

- The Kaiser medical records go directly to the voluntariness of the AWC — a threshold issue. If the AWC was not voluntarily signed, it cannot stand. Medical evidence of severe psychiatric illness with uncontrolled symptoms at the time of signing is among the most material evidence possible on this question.
- The Pastor May 24 email explains the precise mechanism by which Applicant came to sign the AWC without counsel — a fact that the Commission must fully understand to evaluate the AWC's validity.
- The Pastor March 13 email documents the specific exculpatory evidence that was withheld from FINRA and why — directly relevant to the Commission's assessment of whether the certified record fairly represents the full evidentiary picture.

B. There Were Reasonable Grounds for Failure to Adduce This Evidence Previously

The Commission has consistently held that where an applicant's failure to adduce evidence is attributable to the failures of prior counsel rather than the applicant's own neglect, supplementation of the record is appropriate. See, e.g., PAZ Securities, Inc. v. SEC, 494 F.3d 1059 (D.C. Cir. 2007) (recognizing Commission's authority to ensure complete record); see also Ronald S. Bloomfield, Exchange Act Release No. 71632 (Feb. 27, 2014) (discussing Commission's review of FINRA disciplinary actions for procedural fairness).

Here, the reasons for the prior omissions are entirely attributable to prior counsel's failures:

- The Kaiser medical records were available but were never identified by prior counsel as legally significant evidence relevant to the voluntariness of the AWC or the duress surrounding the termination. Applicant, proceeding pro se, identified their significance in preparing this Application for Review.
- The Pastor May 24 email existed at the time of the FINRA proceeding but was not recognized as critical legal evidence of the attorney abandonment sequence until Applicant assembled the complete chronology in this proceeding.
- The Pastor March 13 email was in Applicant's possession but the legal significance of counsel's failure to submit the ALJ ruling — and the documentation of why it was withheld — was not fully appreciated until Applicant, proceeding pro se, assembled the complete picture of prior counsel's failures.

In short: Applicant did not fail to submit this evidence. His attorney failed to submit it — and in the case of the Pastor March 13 email, actively chose not to submit the most powerful exculpatory evidence available. An applicant should not be permanently barred from the securities industry based on a record rendered incomplete by his own attorney's errors.

ARGUMENT

I. The Commission Should Supplement the Record to Ensure a Full and Fair Review

The Exchange Act vests the Commission with authority to review FINRA disciplinary actions to determine whether they are consistent with the Exchange Act, the rules thereunder, and the public interest. 15 U.S.C. § 78s(e). That review can only be meaningful if the Commission has access to the complete evidentiary record. Where — as here — the record was rendered incomplete by prior counsel's documented failures, and where the missing evidence is directly material to the central questions before the Commission, supplementation is both appropriate and necessary.

The three documents sought to be added are not cumulative of evidence already in the record. They fill specific and critical gaps:

- No document in the certified record establishes Applicant's documented severe psychiatric condition at the time of his termination and at the time of the AWC signing. The Kaiser records fill this gap.
- No document in the certified record explains the precise sequence by which Applicant came to be unrepresented when he signed the AWC — specifically, the attorney abandonment ultimatum issued the day before Mueller's email. The Pastor May 24 email fills this gap.
- No document in the certified record documents why the ALJ Kim ruling — the most powerful independent evidence of Applicant's lack of willful misconduct — was never submitted to FINRA. The Pastor March 13 email fills this gap.

II. Denial of This Motion Would Perpetuate an Injustice

This proceeding asks the Commission to review whether a lifetime bar is appropriate against a 30-year financial services professional who:

- Had every OBA disclosed and approved by USB — Lucky Salon (approved), JKS Staffing (approved June 2019), Star Staffing (disclosed March 30, 2020, approved April 1, 2020 by David Berger and Timothy Williamson)
- Was the victim of identity fraud — a fact forensically proven by a court-authorized search warrant resulting in Officer Harris's formal conclusion that Applicant 'did not form nor have part in any business related to Star Staffing Incorporated at its inception in the year of 2019'
- Actively prevented $600,000 in fraud losses to a vulnerable USB client
- Had a 29-year unblemished regulatory record with zero client harm
- Was diagnosed with severe Major Depressive Disorder with uncontrolled symptoms 43 days before his termination
- Was abandoned by his attorney at the most critical moment
- Signed the AWC in direct reliance on FINRA's own Principal Counsel's misrepresentations about its legal consequences

The Commission's review of this matter — without the three documents sought to be added — would occur against a backdrop of an incomplete and misleading record. Justice requires that the Commission have access to the complete picture. The Motion to Supplement should be granted.

<u>RELIEF REQUESTED</u>

For the foregoing reasons, Applicant Sean Pong respectfully requests that this Commission:

1. GRANT this Motion to Supplement the Certified Record;
2. ORDER that the following three documents be added to the certified record and assigned Bates numbers by the Commission's Office of the Secretary:

   (a) Kaiser Permanente Medical Records — June 24, 2021 — Diagnosis: Major Depressive Disorder, Recurrent Episode, Severe — Dr. Priyanka Mukund Deshmukh, M.D. — Kaiser Permanente Norwalk (attached hereto as Exhibit M-1);

   (b) Attorney Samantha Pastor Email — May 24, 2023 — Subject: RESPONSE REQUIRED by Thursday 5/25/23 re: OTR Representation — Demanding $6,000 retainer replenishment by EOD or withdrawal as counsel (attached hereto as Exhibit M-2);

(c) Attorney Samantha Pastor Email — March 13, 2023 — Subject: Re: [SBP] Judge's Decision — Expressing reluctance to submit ALJ Kim ruling to FINRA and failing to submit exculpatory evidence (attached hereto as Exhibit M-3);

3. ALLOW Applicant to cite these supplemental documents by their assigned Bates numbers in his opening brief, which will be filed in accordance with the Commission's Scheduling Order; and
4. GRANT such other and further relief as the Commission deems just and appropriate.

Respectfully submitted,

Sean Pong

Applicant, Pro Se

[redacted]

FINRA CRD No. 2406530

CERTIFICATE OF SERVICE

I, Sean Pong, hereby certify that on the date set forth below, I caused a true and correct copy of the foregoing Motion to Supplement the Certified Record with Newly Identified Material Evidence, together with Exhibits M-1, M-2, and M-3 attached thereto, to be filed electronically with the Commission's Office of the Secretary through the Electronic Filings in Administrative Proceedings (eFAP) system at www.sec.gov/eFAP, pursuant to Rule of Practice 152, 17 C.F.R. § 201.152.

I further certify that on the same date, I caused a copy of the foregoing to be served by electronic mail upon FINRA, the respondent in this proceeding, at both of the following email addresses, pursuant to Rule of Practice 150, 17 C.F.R. § 201.150:

FINRA Counsel:	Celia Passaro, Associate General Counsel
Primary Email:	ersilia.passaro@finra.org
Secondary Email:	nac.casefilings@finra.org
Phone:	(202) 728-8985
Address:	FINRA, 1700 K Street, NW, Washington, DC 20006

Certified this 03 day of June, 2026.

[redacted]

Sean Pong, Applicant, Pro Se

LIST OF EXHIBITS

Exhibit	Date	Description
M-1	June 24, 2021	Kaiser Permanente Medical Records — Dr. Priyanka Mukund Deshmukh, M.D. — Norwalk, CA — Diagnosis: Major Depressive Disorder, Recurrent Episode, Severe — Reason for Off Work: Uncontrolled Symptoms — Patient: Sean Pong — Encounter Date: 6/24/2021 — Off Work: 6/24/2021 through 7/8/2021
M-2	May 24, 2023	Email from Samantha Pastor, AdvisorLawyer — To: Sean Pong — Subject: RESPONSE REQUIRED by Thursday 5/25/23 re: OTR Representation — Demanding $6,000 retainer replenishment by EOD or withdrawing as counsel — Sent: May 24, 2023 at 2:31:57 PM PDT
M-3	March 13, 2023	Email from Samantha Pastor, AdvisorLawyer — To: Sean Pong — Subject: Re: [SBP] Judge's Decision — Expressing reluctance to submit ALJ Kim ruling to FINRA and questioning whether it supports Applicant's defense — Exculpatory evidence never submitted — Sent: March 13, 2023 at 1:19:10 PM PDT

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NOTE: Exhibits M-1, M-2, and M-3 are attached to this Motion as separate PDF documents and are filed simultaneously through the eFAP system. Each exhibit should be assigned a Bates number by the Commission's Office of the Secretary upon receipt.

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