

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HISTORY ASSOCIATES INCORPORATED,

Plaintiff,

v.

U.S. SECURITIES AND EXCHANGE
COMMISSION,

Defendant.

Case No. 1:24-cv-1858-ACR

JOINT STATUS REPORT

Pursuant to this Court’s August 8, 2024 Minute Order, Plaintiff, History Associates Incorporated (“History Associates” or “HAI”), and Defendant, the U.S. Securities and Exchange Commission (“SEC”), by and through their respective undersigned counsel, hereby submit this joint status report.

1. Status of Plaintiff’s FOIA requests

In its Complaint, History Associates asserts claims in connection with three Freedom of Information Act (“FOIA”) requests it submitted to the SEC seeking documents related to the SEC’s investigations relating to Ethereum (“Ethereum Request”), Zachary Coburn (“Coburn Request”), and Enigma MPC (“Enigma MPC Request”). Dkt. 1.

On July 28, 2023, History Associates submitted the Ethereum Request. On October 18, 2023, the SEC’s Office of FOIA Services (“FOIA Office”) informed History Associates that it had not located or identified information responsive to the Ethereum Request. On January 16, 2024, History Associates administratively appealed the FOIA Office’s decision concerning the Ethereum Request. On February 5, 2024, the SEC’s Office of the General Counsel (“OGC”) determined that

it had identified records responsive to the Ethereum Request but that those records are protected from disclosure under FOIA Exemption 7(A).

On August 8, 2023, History Associates submitted the Coburn Request and Enigma MPC Request. On August 11, 2023, the FOIA Office informed History Associates that the SEC is withholding records that may be responsive to the Coburn Request under FOIA Exemption 7(A). On October 5, 2023, the FOIA Office released in part three pages of records responsive to the Enigma MPC Request and informed History Associates that it was withholding under FOIA Exemption 7(A) additional records that may be responsive to that request. History Associates administratively appealed the FOIA Office's decisions in connection with the Coburn and Enigma MPC Requests. The SEC affirmed the FOIA Office's response to the Coburn Request on December 5, 2023, and affirmed the FOIA Office's response to the Enigma MPC Request on January 23, 2024.

On June 27, 2024, History Associates filed this suit against the SEC. Dkt. 1. The SEC has informed History Associates that, in light of intervening developments since OGC's appeal determinations concerning the requests, some or all of the withheld documents may no longer be exempt under Exemption 7(A) but may be exempt under other FOIA provisions. The parties are working in good faith to negotiate the best procedural resolution.

2. Anticipated number of documents responsive to Plaintiff's FOIA requests

Because the parties are discussing HAI's FOIA requests, the anticipated number of responsive records is currently unknown. The SEC will promptly provide HAI with an anticipated number of responsive records.

3. Anticipated date for release of documents requested by Plaintiff

Because the parties are discussing HAI's FOIA requests, the anticipated timeline for the release of responsive records is currently unknown. The SEC will promptly provide HAI with an anticipated release timeline.

4. Whether an *Open America* motion for stay is likely

Because the parties are currently discussing HAI's FOIA requests, the SEC does not yet know whether it anticipates filing a motion for a stay under *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605 (D.C. Cir. 1976).

The parties agree and jointly propose to provide a further status update on or before September 23, 2024.

Date: August 23, 2024

/s/ Eugene Scalia

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Respectfully submitted,

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