

**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 18, 2025 minute order, Plaintiff History Associates and Defendant the U.S. Securities and Exchange Commission hereby submit this joint status report.

This FOIA lawsuit concerns three FOIA requests that History Associates filed with the SEC in 2023. ECF 1 at 13-14. Thus far in the litigation, the SEC has produced documents responsive to four prioritized subparts of one of History Associates’ three original FOIA requests, concerning certain documents relating to Ethereum. *See, e.g.*, ECF 30 at 1; ECF 34. On August 18, 2025, the parties submitted a joint status report indicating that they were negotiating the production of records by the SEC in response to two prioritized subparts of History Associates’ two other original FOIA requests, which relate to the Enigma MPC and Zachary Coburn investigations. ECF 35.

Processing Additional Subparts 5 and 6

On August 22, the parties agreed to define those two additional prioritized subparts as follows:

- **Subpart 5 (Enigma MPC Investigation).** All records sent to or from all former SEC Commissioners, their counsels, the Director of the Division of Enforcement, the Director of the Crypto Asset and Cyber Unit, the Director of the Office of the Strategic Hub for

Innovation and Financial Technology, and the Director of the Division of Corporation Finance containing agreed-upon keywords from June 1, 2017 through the present.

- **Subpart 6 (Zachary Coburn Investigation).** All records sent to or from all former SEC Commissioners, their counsels, the Director of the Division of Enforcement, the Director of the Crypto Asset and Cyber Unit, the Director of the Office of the Strategic Hub for Innovation and Financial Technology, and the Director of the Division of Corporation Finance containing agreed-upon search terms from May 1, 2017 through the present.

The parties further agreed that, by October 16, 2025, the SEC will (1) process and produce responsive records that discuss the Enigma MPC and Zachary Coburn investigations in more than a cursory fashion, and (2) provide spreadsheets for the remaining responsive records containing at least the title, date, sender, and recipients (to the extent that information is not exempt) for each record. History Associates reserves its right to seek full production of all nonexempt records responsive to its 2023 FOIA requests.

History Associates' Position Regarding the SEC OIG's September 3, 2025 Report

On September 3, after the parties reached this agreement, the SEC's Office of Inspector General published a report titled "Special Review: Avoidable Errors Led to the Loss of Former SEC Chair Gary Gensler's Text Messages," <https://www.sec.gov/files/sec-oig-review-587-2025.pdf>. The Inspector General's report found, *inter alia*, that in September 2023 "the agency erased nearly a year's worth of text messages sent and received by the then SEC Chair, Gary Gensler," that were "sent and received by Gensler between October 18, 2022, and September 6, 2023." *Id.* at i. It further found that Gensler's "text messages were not searched" in processing "FOIA requests submitted after September 6, 2023, to which Gensler's lost text messages could have been responsive ... even though 'all emails or other communications' and 'any communications' were requested." *Id.* at 16. History Associates has serious concerns in light of the Inspector General's findings in this report and has asked the SEC to explain how the deficiencies identified

in the report have affected the SEC's responses to History Associates' FOIA requests and its compliance with this Court's orders. Depending on the SEC's responses, History Associates may seek prompt relief from this Court.

The SEC's Position Regarding the September 3, 2025 OIG Report

The SEC understands Plaintiff's concerns regarding the September 3, 2025 OIG report and will provide Plaintiff with additional information in response to Plaintiff's questions as soon as possible.

Otherwise, the parties propose to provide the Court with a status report on October 23, 2025—one week after the SEC's response and production would be due under the parties' agreement.

Date: September 5, 2025

Respectfully submitted,

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