

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC**

In the Matter of the Application for Review of
DNA Brands, Inc. (DNAX) and ZA Group, Inc. (ZAAG) Shareholders
File No. 3-22572

**FINRA'S OPPOSITION TO SHAREHOLDERS' REQUEST FOR SUPPLEMENTAL
BRIEFING**

Michael Garawski
Senior Vice President and
Director – Appellate Group

Jennifer Brooks
Associate General Counsel

Elizabeth Sisul
Associate General Counsel

FINRA
Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-6936

March 26, 2026

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Two individual shareholders (“Shareholders”), one of ZA Group, Inc. (“ZAAG”) and one of DNA Brands, Inc. (“DNAX”) (together, “Issuers”), appealed FINRA’s Department of Market Operations’ (“Operations”) deficiency determinations, pursuant to FINRA Rule 6490(d)(3)(3), based on the fact that Stephen Hicks, a convertible note holder of both Issuers, had been the subject of actions by the Securities and Exchange Commission (“Commission”) and the Connecticut Department of Banking for securities-law-related violations. FINRA moved to dismiss the Shareholders’ application for review because: (1) the Issuers did not exhaust FINRA’s administrative remedies; (2) the Shareholders are not a proper party before the Commission; and (3) the Commission lacks jurisdiction over the Shareholders’ requests for structural reforms and oversight measures, including those related to their constitutional claims.

The parties have thoroughly briefed FINRA’s motion to dismiss, with briefing concluding on January 8, 2026. The Shareholders now ask the Commission for leave to file a supplemental brief based on FINRA’s reply brief in support of its motion to dismiss filed in federal court in tangential litigation that Hicks, in the name of Trillium Partners, L.P. (“Hicks Litigation”), brought against FINRA. *Stephen Hicks v. FINRA*, FINRA’s Reply in Support of

Motion to Dismiss, No. 1:25-cv-03598-EGS (D.D.C. Mar. 12, 2026) (“Federal Court Reply Brief”). For the reasons set forth below, the Commission should deny the Shareholders’ motion for supplemental briefing in this matter.

When deciding whether to order additional briefing, the Commission “may . . . consider any matter that it deems material, whether or not raised by the parties . . . where the Commission believes that such briefing would significantly aid the decisional process.” Commission Rule of Practice, Rule 421(b), 17 C.F.R. § 201.421(b). The Shareholders have not demonstrated that FINRA’s Federal Court Reply Brief is material to the issues before the Commission in FINRA’s motion to dismiss here or that additional briefing relating to FINRA’s Federal Court Reply Brief would significantly aid the Commission’s decisional process. *See id.*

The Shareholders claim that FINRA’s position in its Federal Court Reply Brief, “particularly FINRA’s reliance on SEC oversight to defeat federal court jurisdiction, and its simultaneous arguments to defeat SEC review in this proceeding,” “bears materially on how the Commission should exercise its oversight authority and evaluate FINRA’s motion.” Mot. for Leave to File Supp. Br. at 1. The arguments the Shareholders seek to make, however, are simply repackaged versions of those previously raised in their application for review and their Opposition to FINRA’s Motion to Dismiss and do nothing to resolve the multiple dispositive defects of their appeal.

The facts here are simple. The Issuers failed to exhaust their administrative remedies available to them before FINRA provided by FINRA Rule 6490, and the Shareholders are not proper parties to seek review of Operations’ actions before the Commission. In their request for supplemental briefing, the Shareholders ignore entirely the Commission’s well-settled precedent requiring parties to avail themselves of FINRA’s procedures for internal review of FINRA

actions before seeking Commission review. *See, e.g., Bournehill Inv. Servs., Inc.*, Exchange Act Release No. 103369, 2025 SEC LEXIS 1828, at *2-3 (July 2, 2025); *Shlomo Sharbat*, Exchange Act Release No. 93757, 2021 SEC LEXIS 3647, at *8 (Dec. 13, 2021). They also make no attempt to overcome the fact that they lack authority to pursue an appeal under FINRA Rule 6490 when the Issuers chose to forgo that process. *See* FINRA Rule 6490(b)(1), (e) (stating that only an issuer or a “duly authorized representative of the issuer” may request that FINRA process documentation related to an announcement of a Company-Related Action and appeal deficiency determinations). Nor do they attempt to demonstrate that FINRA has prohibited or limited their access to a service that FINRA offers.¹ These flaws are fatal to the Shareholders’ application for review, and additional briefing on a tangential federal court case in which the Issuers are not parties is not warranted.

In any event, the parties have extensively briefed the issues the Shareholders seek to advance in their proposed supplemental brief. Indeed, the Shareholders’ Opposition to FINRA’s Motion to Dismiss devoted an entire section to the argument that FINRA had adopted contradictory positions in this matter and in federal court litigation (both in the Hicks Litigation and in other cases in federal court) to evade oversight over its actions. *See* Opp’n to Mot. to Dismiss at 12-14. As FINRA stated in its Reply to Shareholders’ Opposition to FINRA’s Motion to Dismiss, FINRA’s position is the same in both matters: Commission review is appropriate only when the proper party follows the Rule 6490 process by appealing Operations’

¹ The Shareholders also do not suggest that FINRA’s Federal Court Reply Brief creates one of the four possible grounds for Commission jurisdiction set forth by Exchange Act Section 19(d) with respect to the Shareholders’ requests for structural reforms and oversight measures. Nor can they. *See Entrex Carbon Mkt., Inc. Shareholders*, Exchange Act Release No. 104535, 2026 SEC LEXIS 13, at *3 (Jan. 2, 2026).

deficiency determination to FINRA's Uniform Practice Code Committee.² FINRA's Reply to Opp'n at 3 n.8. The Shareholders may not circumvent the orderly administrative process that was available to the Issuers by appealing directly to the Commission. *Ricky D. Mullins*, Exchange Act Release No. 71926, 2014 SEC LEXIS 1268, at *9 (Apr. 10, 2014) ("It is clearly proper to require that a statutory right to review be exercised in an orderly fashion, and to specify procedural steps which must be observed as a condition to securing review.") (quoting *MFS Secs. Corp.*, Exchange Act Release No. 47626, 2003 SEC LEXIS 789, at *22 & n.29 (Apr. 3, 2003)).

The parties already have thoroughly briefed the issues relevant to FINRA's motion to dismiss and additional briefing would not significantly aid the Commission's decisional process. The Commission should deny Shareholders' motion for leave to file a supplemental brief.³

Respectfully submitted,

/s/ Elizabeth Sisul

Elizabeth Sisul
Associate General Counsel
FINRA
1700 K Street, NW
Washington, DC 20006
(202) 728-6936
elizabeth.sisul@finra.org
nac.casefilings@finra.org

Dated: March 26, 2026

² Contrary to Shareholders' assertion that "FINRA itself flagged the Federal Court Action in its January 8 Reply," FINRA referenced the federal court litigation only in response to arguments first raised by the Shareholders in their opposition.

³ The Shareholders' motion for leave to file a supplemental brief includes both the motion and their proposed Supplemental Brief in Opposition to FINRA's Motion to Dismiss. Because the Shareholders' proposed submission is not properly before the Commission, FINRA does not respond to their arguments on the merits herein. FINRA reserves the right to do so if the Commission, in its discretion, orders the parties to file additional briefing.

CERTIFICATE OF COMPLIANCE

I, Elizabeth Sisul, certify that FINRA's Opposition to Shareholders' Request for Supplemental Briefing complies with SEC Rule of Practice 151(e) because it omits or redacts any sensitive personal information.

/s/ Elizabeth Sisul
Elizabeth Sisul
Associate General Counsel
FINRA – Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-6936
elizabeth.sisul@finra.org
nac.casefilings@finra.org

Dated: March 26, 2026

CERTIFICATE OF SERVICE

I, Elizabeth Sisul, certify that on this 26th day of March 2026, I caused a copy of the foregoing Opposition to Shareholders' Request for Supplemental Briefing, in the matter of Application for Review of DNA Brands, Inc. (DNAX) and ZA Group, Inc. (ZAAG) Shareholders, Administrative Proceeding File No. 3-22572, to be filed through the SEC's eFAP system.

And served by electronic mail on:

Nicolas Morgan
Investor Choice Advocates Network
453 South Spring Street
Suite 400
Los Angeles, CA 90013
nicolas.morgan@icanlaw.org

/s/ Elizabeth Sisul
Elizabeth Sisul
Associate General Counsel
FINRA – Office of General Counsel
1700 K Street, NW
Washington, DC 20006
(202) 728-6936
elizabeth.sisul@finra.org
nac.casefilings@finra.org