

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 98190 / August 22, 2023

ACCOUNTING AND AUDITING ENFORCEMENT

Release No. 4444 / August 22, 2023

ADMINISTRATIVE PROCEEDING

File No. 3-21573

In the Matter of

**ALPINE 4 HOLDINGS,
INC.,**

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Alpine 4 Holdings, Inc. (“Alpine” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. These proceedings arise out of the violation of Exchange Act Rule 12b-25, which requires that issuers of a security registered pursuant to Section 12 of the Exchange Act that fail to file timely a periodic report shall file a Form 12b-25 "Notification of Late Filing," commonly known as "Form NT," which contains, among other things, reasonable detail as to why the issuer's periodic report could not be filed on time and an explanation of any anticipated, significant changes in the issuer's results of operations.

2. In November 2022, Alpine violated Rule 12b-25 by filing a Form 12b-25 with the Commission in which Alpine failed to disclose why, in sufficient detail under the circumstances presented, its third-quarter fiscal year ("FY") 2022 Form 10-Q could not be timely filed. Alpine's Form 12b-25 also failed to acknowledge anticipated, significant changes in Alpine's results of operations for the third quarter of FY2022, compared with Alpine's operating results in the third quarter of FY2021, and to provide an explanation of the changes. Four days after filing its Form 12b-25, Alpine filed an 8-K disclosing to investors and the market that its previously-filed financial statements included in Forms 10-K for FY2020 and FY2021, and all Forms 10-Q filed in FY2021 should no longer be relied upon. Alpine, however, had failed to include in its Form 12b-25 any disclosure that the discovery, and ongoing correction, of errors in its prior Forms 10-K and 10-Q were among the principal reasons that it was unable to file timely the subject Form 10-Q for the third quarter of FY2022. Ultimately, Alpine further failed to file the subject Form 10-Q even within the extension period provided by Rule 12b-25.

Respondent

3. Alpine, a Delaware corporation based in Phoenix, Arizona, is engaged in the business of acquiring aerospace, defense services and technology related businesses. At all relevant times, Alpine common stock has been registered under Section 12(b) of the Exchange Act and trades on the NASDAQ Capital Market under the symbol ALPP.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Legal Framework and Facts

4. Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder require issuers with a security registered pursuant to Section 12 of the Exchange Act to file with the Commission annual reports on Form 10-K and quarterly reports on Form 10-Q.

5. Rule 12b-25 provides that if an issuer fails to file a Form 10-K or 10-Q within the time period prescribed for such report, the issuer, no later than one business day after the due date for such report, shall file a Form 12b-25 with the Commission, disclosing the issuer's inability to file the report timely and the reasons therefore in reasonable detail.² Form 12b-25 requires the issuer to affirm, among other things, that the subject periodic report will be filed within fifteen calendar days, for a Form 10-K, or within five calendar days, for a Form 10-Q, of the report's prescribed due date. Form 12b-25 also requires the issuer to confirm whether or not it anticipates that any significant change in results of operations from the corresponding period for the prior fiscal year will be reflected by the earnings statements to be included in the subject periodic report. If such change is anticipated, the issuer must attach a narrative and quantitative explanation of the anticipated change and, if appropriate, state the reasons why a reasonable estimate of the results cannot be made.

6. On November 14, 2022, Alpine filed with the Commission a Form 12b-25 disclosing that Alpine's Form 10-Q for its third fiscal quarter, ended September 30, 2022, "could not be filed without unreasonable effort or expense within the prescribed time period because management requires additional time to compile and verify the data required to be included in the report."

7. Furthermore, in its Form 12b-25, Alpine affirmed that it would file the subject Form 10-Q within the five-calendar-day extension period and indicated that it did not anticipate that any significant change in results of operations from the corresponding period for the prior fiscal year would be reflected in the subject Form 10-Q.

8. On November 18, 2022, Alpine filed with the Commission a Form 8-K disclosing that "the Company's December 31, 2020 financial statements in the Company's previously filed Annual Report on Form 10-K for the year ended December 31, 2020 (the '2020 Relevant Periods'), the financial statements in the Quarterly Reports on Form 10-Q as of and for the quarters ended March 31, 2021, June 30, 2021 and September 30, 2021, and the December 31, 2021 financial statements in the Annual Report on Form 10-K for the year ended December 31, 2021 (collectively, the '2021 Relevant Periods'), as well as the financial statements in the Quarterly Reports for the periods ended March 31, and June 30, 2022 (the '2022 Relevant Periods') should no longer be relied upon." Alpine determined "there were issues in the Company's accounting for business combinations and for income taxes in the 2020, 2021, and 2022 Relevant Periods."

² Form 12b-25 specifies a "narrative" disclosure in "reasonable detail why" Form 10-Q or 10-K "could not be filed within the prescribed time period." (See Form 12b-25, Part III.)

9. Prior to November 14, 2022, Alpine understood that its inability to meet the filing deadline for its third-quarter FY2022 Form 10-Q was due, in large part, to the discovery, and ongoing correction, of errors in its FY2020 10-K and FY2021 Forms 10-Q and 10-K. In its Form 12b-25, however, Alpine failed to disclose any of this information much less provide the detailed narratives specifically called for by the form.

10. Additionally, although Alpine affirmed in its November 14, 2022 Form 12b-25 that it would file its third-quarter FY2022 Form 10-Q within five calendar days, it ultimately failed to do so. Ultimately, Alpine filed the Form 10-Q on April 25, 2023.

Violations

11. As a result of the conduct described above, Alpine violated Section 13(a) of the Exchange Act and Rule 12b-25 thereunder.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Alpine's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Alpine cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Rule 12b-25 thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$60,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch

HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Alpine as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to D. Mark Cave, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary