

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101706 / November 22, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22329

In the Matter of

**PAULSON INVESTMENT
COMPANY, LLC,**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT
OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND
A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Paulson Investment Company, LLC (“Paulson” 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 Administrative and Cease-And-Desist Proceedings, Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-And-Desist Order (“Order”), as set forth below.

III.

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

Summary

1. From July 2018 through August 2022 (the "Relevant Period"), Respondent, a registered broker-dealer, filed deficient Suspicious Activity Reports ("SARs") with the U.S. Department of Treasury's Financial Crimes Enforcement Network ("FinCEN"). These filed SARs were deficient because Paulson failed to include all of the required details of the reported suspicious transactions that it knew or should have known in the narrative of the SARs, as required by regulation and FinCEN guidance.

2. By failing to file complete and sufficient SARs, Paulson willfully¹ violated Section 17(a) of the Exchange Act and Rule 17a-8 thereunder.

Respondent

3. Paulson Investment Company, LLC is organized in Delaware as a limited liability company, with its principal place of business in Lake Oswego, Oregon. It has been registered with the Commission as a broker-dealer since 1981. Respondent specializes in executing orders from other broker-dealers, hedge funds, and high net worth individuals, as well as making markets in various equities.

The Bank Secrecy Act

4. The Bank Secrecy Act ("BSA") and implementing regulations promulgated by FinCEN require that broker-dealers file SARs with FinCEN to report a transaction (or a pattern of transactions of which the transaction is a part) conducted or attempted by, at, or through the broker-dealer involving or aggregating to at least \$5,000 that the broker-dealer knows, suspects, or has reason to suspect: (1) involves funds derived from illegal activity or is intended or conducted to disguise funds derived from illegal activities; (2) is designed to evade any requirement of the BSA; (3) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the broker-dealer knows of no reasonable explanation of the transaction after examining the available facts, including the background and possible purpose of the transaction; or (4) involves use of the broker-dealer to facilitate criminal activity. 31 C.F.R. § 1023.320(a)(2) ("SAR Rule"). Broker-dealers are required to file a SAR no later than thirty (30) calendar days after the date of the initial detection of facts that may constitute a basis for filing a SAR under the SAR Rule. 31 C.F.R. § 1023.320(b)(3). In cases where the broker-dealer

¹ "Willfully," for purposes of imposing relief under Section 15(b) of the Exchange Act "means no more than that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965).

cannot identify a suspect on the date of initial detection, it must file the SAR within sixty (60) calendar days of the initial detection of facts that may constitute a basis for filing a SAR. *Id.*

5. FinCEN's instructions for filing SARs throughout the Relevant Period required that the SAR narrative contain "a clear, complete, and concise description of the activity, including what was unusual or irregular that caused suspicion" and to "include any other information necessary to explain the nature and circumstances of the suspicious activity." FinCEN Suspicious Activity Report Electronic Filing Requirements (October 2012 and August 2021).² As noted by FinCEN, in order to be effective tools and fulfill their intended purpose, SAR narratives must generally "identify the five essential elements of information—*who? what? when? where? and why?*—of the suspicious activity being reported" and must include a "summary of the 'red flags' and suspicious patterns of activity that initiated the SAR." FinCEN Guidance on Preparing a Complete and Sufficient Suspicious Activity Report Narrative (November 2003).³ FinCEN guidance interpreting Section 1023.320 is entitled to deference and when a SAR is filed "it must include information about each of the Five Essential Elements of the suspicious activity." *See SEC v. Alpine Sec. Corp.*, 308 F. Supp. 3d 775, 791, 804 (S.D.N.Y. 2018), *aff'd* 982 F.3d 68 (2d Cir. 2020), *cert. denied*, *Alpine Sec. Corp. v. SEC*, 142 S. Ct. 461 (2021). When a SAR "lack[s] basic information regarding the Five Essential Elements...[the] SAR [i]s deficient as a matter of law." *Id.* at 800.

6. Exchange Act Rule 17a-8 requires broker-dealers registered with the Commission to comply with the reporting, recordkeeping, and record retention requirements of Chapter X of Title 31 of the Code of Federal Regulation, which contains the SAR Rule and other requirements. Failing to file complete and sufficient SAR narratives as required by the SAR Rule and the FinCEN guidance is a violation of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder. *See Alpine Sec. Corp.*, 308 F. Supp. 3d at 798-807.

Paulson's Policies and Procedures

7. During the Relevant Period, Paulson maintained certain written policies and procedures relating to its anti-money laundering ("AML") compliance program and its filing of SARs. Among other things, Paulson's policies and procedures quoted the SAR Rule as to when SARs were required to be filed.

8. Paulson's policies and procedures further stated that Paulson would "become familiar with available resources such as FinCEN's website which contains information including...SAR Bulletins that discuss tips and trends in suspicious reporting." Additionally, Paulson's policies and procedures contained the website link to the SAR instructions on FinCEN's website.

² *See*

<https://www.fincen.gov/sites/default/files/shared/FinCEN%20SAR%20ElectronicFilingInstructions-%20Stand%20Alone%20doc.pdf>.

³ *See* https://www.fincen.gov/sites/default/files/shared/sarnarrcompletguidfinal_112003.pdf.

Paulson's Deficient SARs

9. Despite these policies and procedures, throughout the Relevant Period, Paulson filed SARs that did not contain the information in the SAR narrative as required by FinCEN. Certain of Paulson's filed SARs omitted facts identifying the "five essential elements"—namely the "who, what, when, where, and why" of the suspicious activity being reported—from the SAR narratives. These acts were necessary to make the SAR narratives effective tools and fulfill their intended purpose.

10. For example, in April 2021, Paulson filed a SAR in which the narrative stated that in reviewing a request to approve margin trading for a client's account, Paulson became aware of a letter of intent ("LOI") between two entities. This SAR narrative, however, failed to include all of the information required by FinCEN, including the name of the customer and the account number; details about the LOI, such as its date and terms, how Paulson became aware of the LOI, and the relationship between the LOI and the customer or their margin trading request; why the margin trading request was suspicious and/or why the LOI was suspicious; and any actions taken by Paulson.

11. In another example, in July 2021, Paulson filed a SAR in which the narrative stated that for May and June 2021, another broker-dealer's trading volume with Paulson averaged nearly 25% of the shares outstanding in a security. The SAR narrative, however, failed to include all of the information required by FinCEN, including the name of the security at issue; the details of the broker-dealer's trades in this security, such as the dates, amounts, and prices of the trades; the total trading volume in the security at issue as compared to the broker-dealer's trading volume; Paulson's relationship with the broker-dealer; whether Paulson had previously filed any related SARs; and any actions taken by Paulson.

12. As a further example, in June 2022, Paulson filed a SAR in which the narrative referenced a wash sale exception report that appeared to show day trading for the purpose of market manipulation. The SAR narrative, however, failed to include all of the information required by FinCEN, including the subject's name; the details of the apparent wash sale trading, such as other broker-dealers involved, the subject security or securities, the dates, amounts and prices of the trading at issue, and why the trades appeared to be wash sales; whether Paulson had previously filed any related SARs; and any actions taken by Paulson.

13. As a result of the conduct described above, Paulson willfully violated Section 17(a) of the Exchange Act and Rule 17a-8 thereunder.

Paulson's Cooperation

In determining to accept the Offer, the Commission considered Respondent's cooperation afforded the Commission staff.

IV.

Undertakings

Respondent has undertaken to:

A. Within thirty (30) days from the issuance of this Order, at its own cost, hire an independent AML Compliance Consultant (the “Compliance Consultant”), not unacceptable to the Commission staff, to conduct a comprehensive review of Respondent’s AML compliance program and the implementation and effectiveness of Respondent’s AML policies and procedures. Respondent shall require the Compliance Consultant to submit to the Commission staff a written report (the “Report”) on the ninetieth (90th) day from the issuance of this Order describing the review it performed, the names of the individuals who performed the review, the conclusions reached, and the Compliance Consultant’s recommendations for changes in or improvements to Respondent’s AML program.

B. Adopt all recommendations in the Report within one hundred fifty (150) days of the issuance of this Order, provided that within one hundred twenty (120) days after the date of the Order’s issuance, Respondent shall in writing advise the Compliance Consultant and the Commission staff of any recommendation that Respondent considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that Respondent considers unduly burdensome, impractical, or inappropriate, Respondent need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure, or system designed to achieve the same objective or purpose.

C. As to any recommendation with respect to Respondent’s policies and procedures on which Respondent and the Compliance Consultant do not agree, Respondent and the Compliance Consultant shall attempt in good faith to reach an agreement within one hundred fifty (150) days after the date the Order is issued. Within fifteen (15) days after the conclusion of the discussion and evaluation by Respondent and the Compliance Consultant, Respondent shall require that the Compliance Consultant inform Respondent and the Commission staff in writing of the Compliance Consultant’s final determination concerning any recommendation that Respondent considers to be unduly burdensome, impractical, or inappropriate. Respondent shall abide by the determinations of the Compliance Consultant and, within thirty (30) days after final agreement between Respondent and the Compliance Consultant or final determination of the Compliance Consultant, whichever occurs first, Respondent shall adopt and implement all of the recommendations that the Compliance Consultant deems appropriate.

D. Within thirty (30) days of Respondent’s adoption of all the recommendations in the Report that the Compliance Consultant deems appropriate, as determined pursuant to the procedures set forth herein, certify in writing to the Compliance Consultant and the Commission staff that Respondent has adopted and implemented all of the Compliance Consultant’s recommendations in the Report. Thereafter, beginning two hundred forty (240) days after the entry of the Order, the Compliance Consultant shall conduct such review as it deems appropriate to verify that Respondent has appropriately implemented the recommendations in the Report. Unless otherwise directed by the Commission staff, all reports, certifications, and other documents

required to be provided to the Commission staff shall be sent to Ian S. Karpel, Assistant Regional Director, Denver Regional Office, 1961 Stout Street, Suite 1700, Denver, CO 80294.

E. Cooperate fully with the Compliance Consultant and provide the Compliance Consultant with access to such files, books, records, and personnel as are reasonably requested by the Compliance Consultant for review.

F. To ensure the independence of the Compliance Consultant for the remainder of the engagement: (1) not terminate the Compliance Consultant or substitute another compliance consultant for the Compliance Consultant without the prior written approval of the Commission staff; and (2) compensate the Compliance Consultant and persons engaged to assist the Compliance Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

G. For the period of engagement and for a period of two (2) years from completion of the engagement, the Respondent will not (i) retain the Compliance Consultant for any other professional services outside of the services described in this Order; (ii) enter into any other professional relationship with the Compliance Consultant, including any employment, consultant, attorney-client, auditing, or other professional relationship; or (iii) enter, without prior written consent of the Commission staff, into any such professional relationship with any of the Compliance Consultant's present or former affiliates, employers, directors, officers, employees, or agents acting in the capacity as such. Respondent, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with any firm with which the Compliance Consultant is affiliated or of which the Compliance Consultant is a member, or with any person engaged to assist the Compliance Consultant in performance of the Compliance Consultant's duties under this Order, without prior written consent of the Commission staff, for the period of the engagement and for a period of two (2) years after the engagement.

H. Preserve for a period of not less than six (6) years from the end of the fiscal year last used, the first two (2) years in an easily accessible place, any record of its compliance with the undertakings set forth herein.

I. Certify, in writing, compliance with its undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting materials shall be submitted to Ian S. Karpel, Assistant Regional Director, with a copy of the Office of Chief Counsel of the Enforcement Division, no later than sixty (60) days from the date of the completion of the undertakings.

For good cause shown, the Commission staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

The reports by the Compliance Consultant will likely include confidential financial, proprietary, competitive business, or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations, or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) as otherwise required by law.

V.

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

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Exchange Act and Rule 17a-8 promulgated thereunder.

B. Respondent is censured.

C. Respondent shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$75,000 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 Paulson 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 Nicholas Heinke, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 1961 Stout Street, Ste. 1700, Denver, CO 80294.

D. 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 thirty (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.

E. Respondent shall comply with the undertakings enumerated in Section IV. above.

By the Commission.

Vanessa A. Countryman
Secretary