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UNITED STATES OF AMERICA

SECURITIES AND EXCHANGE COMMISSION

In the Matter of the Application of

ALPINE SECURITIES CORPORATION, a
Utah limited liability company

For Review of Action Taken By

FINANCIAL INDUSTRY REGULATORY
AUTHORITY

**COMBINED PETITION FOR REVIEW
PURSUANT TO SECTION 19(d) AND
19(c) TO AMEND, REPEAL OR
SUSPEND FINRA IMPROPERLY
PROMULGATED CHANGES TO FINRA
RULE 9261**

(Oral Argument Requested)

To: The Office of the Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Pursuant to Sections 19(d) and (f) of Securities Exchange Act of 1934 (the “Exchange Act”) and SEC Rule of Practice 420, and/or pursuant to Section 19(c) and 19(b)(3)(C) of the Exchange Act and Rules of Practice 191 and 192, Petitioner Alpine Securities Corporation (“Alpine”) respectfully petitions the Commission to take the following actions with respect to conduct of the Financial Industry Regulatory Authority (“FINRA”):

1. To amend, repeal or suspend, under Sections 19(c) and 19(b)(3)(C) of the Exchange Act, FINRA’s purportedly “noncontroversial,” immediately effective changes to FINRA Rule

9261 of FINRA’s Code of Disciplinary Procedure¹ to remove a respondent’s vested right to an “in person” hearing (the “Zoom Amendment”), on the basis that the Zoom Amendment was improperly designated by FINRA as immediately effective, and because it is based on the arbitrary and specious rationale of the “public health risks posed by an in-person hearing” to deprive respondents of their right to an in-person hearing and their statutory right to a “fair procedure” in disciplinary hearings under 15 U.S.C. § 78o-3(b)(8), *even while FINRA is conducting all arbitrations and mediations in person at FINRA’s locations.*²

2. To review and set aside, as an impermissible limitation or denial of access to services under Section 19(d) and (f) of the Exchange Act, an Order entered by FINRA’s Chief Hearing Officer on August 9, 2021 in a FINRA enforcement proceeding against Alpine,³ that relied on the Zoom Amendment to order the remainder of the enforcement proceeding to continue by remote means, after FINRA’s Department of Enforcement (“DOE”) already had the benefit of presenting the majority of its case in person. In summary, the order: deprives Alpine of full access to FINRA’s disciplinary process, including Alpine’s vested rights to an in-person hearing and a fair procedure in disciplinary proceedings; impermissibly applies the Zoom Amendment retroactively to a proceeding already in progress; is arbitrary, citing “public health risks” due to the pandemic as the basis for decision to deprive Alpine of its vested rights in a disciplinary proceeding seeking expulsion of the firm, without regard or mention of the fact that FINRA has now resumed in person arbitrations and mediations to be conducted in person at least since August 2, 2021.

¹ The “temporary” rule change was initially made pursuant to SR-FINRA-2020-027, but has been extended several times, most recently on August 17, 2021 in SR-FINRA-2021-019.

² A copy of FINRA’s COVID guidance, downloaded from FINRA’s website, regarding in person arbitrations and mediations is attached hereto as Ex. A, and is also available at <https://www.finra.org/rules-guidance/key-topics/covid-19>. A copy of a letter Alpine’s counsel received from FINRA in an unrelated arbitration is attached hereto as Ex. B.

³ See Order Setting Remote Hearing, dated August 9, 2021, attached hereto as Ex. C.

Summary of Factual and Procedural Background

Alpine is a small, self-clearing broker-dealer, that is registered with the Commission and is a member in good standing of FINRA, among other SRO's. In August of 2019, FINRA's Division of Enforcement ("DOE") instituted a disciplinary proceeding against Alpine, asserting that Alpine violated FINRA's requirement of "reasonable" fees under FINRA Rule 2010. One of the sanctions sought by FINRA in that proceeding is expulsion from membership.

Alpine invoked its right to an "in person" hearing guaranteed by FINRA Rule 9261, and the Hearing Officer ordered the hearing be held in person in Salt Lake City, Utah. At the time, Rule 9261 provided: "If a hearing is held, a Party shall be entitled to be heard in person, by counsel, or by the Party's representative."⁴

The in-person hearing commenced on February 18, 2020 and proceeded through February 22, 2020. During that time, DOE presented much of its case against Alpine live, including six witnesses. The hearing was initially adjourned on February 22, 2020 due to an urgent family matter affecting Alpine's counsel, and then postponed several more times due to the Covid-19 pandemic.

On August 31, 2020, FINRA proposed the Zoom Amendment as a "temporary amendment" to Rule 9261(b), to purport to give FINRA's Chief Hearing Officer authority to eliminate a party's vested right to an "in person" hearing. The proposed rule provided the below-underlined changes to Rule 9261(b):

If a hearing is held, a Party shall be entitled to be heard in person, by counsel, or by the Party's representative. Upon consideration of the current public health risks presented by an in-person hearing, the Chief Hearing Officer or Deputy Chief Hearing Officer may, on a temporary basis, determine that the hearing shall be conducted, in whole or in part, by video conference.⁵

⁴ See FINRA Rule 9261(b) (prior to October 1, 2020).

⁵ FINRA Rule 9261(b) (temp. rule, October 1, 2020) (underlined portion includes the language added).

FINRA filed the Zoom Amendment as a purportedly “non-controversial” rule change under 15 U.S.C. § 78s(b)(3)(A)(iii) and 17 C.F.R. § 240.19b-4(f)(6), such that it would take effect immediately (on October 1, 2020), before the SEC approved or disapproved it or interested parties could comment on it. FINRA has renewed the temporary rule several times, all without notice and comment or prior SEC approval, most recently on August 17, 2021 (to continue the temporary rule through December 31, 2021).⁶ The stated basis for the initial Zoom Amendment, and the most recent extension thereof, is “public health risks posed by an in-person hearing.”⁷

The Chief Hearing Officer has now issued two orders, on March 5, 2021 and August 9, 2021, ordering that the hearing continue remotely on September 20, 2021.⁸

On August 2, 2021 – two weeks before FINRA again extended the Zoom Amendment, and one week before the Chief Hearing Officer issued the August 9, 2020 order – FINRA updated its policy on in-person arbitration and mediation proceedings to confirm: “Effective August 2, 2021, *all* FINRA DRS hearing locations are open for in-person arbitration and mediation proceedings.”⁹

Relief Requested

The Commission should grant this Petition and repeal or suspend operation of the Zoom Amendment, as extended, under Section 19(c) or 19(b)(3)(C) of the Exchange Act because it is improperly promulgated, and is being arbitrarily and retroactively applied in a manner that is not consistent with the Exchange Act, its rules, or the fair administration of the SRO.¹⁰

These same grounds also support granting this Petition under Section 19(d) or (f) of the

⁶ See SR-FINRA-2021-019.

⁷ See SR-FINRA-2020-027 and SR-FINRA-2021-019.

⁸ Alpine renewed its motion for preliminary injunction on August 17, 2021, but on September 7, 2021, the district court granted FINRA’s motion to dismiss Alpine’s complaint for lack of subject matter jurisdiction.

⁹ See FINRA’s COVID-Corona Virus Guidance, Ex. A hereto (emphasis added).

¹⁰ Section 19(b)(3) authorizes the Commission to “summarily . . . suspend” a proposed rule change of a self-regulatory organization (“SRO”) which has taken effect under Section 19(b)(3)(A) at any time within 60 days of the filing of the proposed rule change, and institute proceedings to determine whether the rule change should be approved or disapproved. See 15 U.S.C. § 78s(b)(3)(C). Section 19(c) allows the Commission to abrogate, or delete any SRO rule as the Commission “deems necessary or appropriate to insure the *fair administration* of the [SRO], [and] to conform its rules to the requirements of this chapter and the rules and regulations thereunder” See *id.* § 78s(c).

Exchange Act because the improperly promulgated Zoom Amendment is being used by FINRA to impermissibly and arbitrarily limit Alpine's vested rights of access to the services FINRA provides to members in disciplinary proceedings, including the right to an "in person" hearing and to a "fair procedure."¹¹ Undeniably, access to a fair disciplinary hearing, with all of the existing protections provided by law, is one of FINRA's fundamentally important services.

Summary of Grounds for Relief Requested

1. The Zoom Amendment was improperly promulgated. The Zoom Amendment is neither "noncontroversial," nor concerned "solely with the administration" of FINRA, as is required to amend a rule under Section 19(b)(3)(iii) and Rule 19b-4(f)(6). Rather, the Amendment purports to amend FINRA's Code of Procedure, which was approved by the SEC after notice and comment, and serves to deprive Alpine and other members of their vested right to an "in person" disciplinary hearing. The SEC Release that adopted the relevant amendments to Rule 19b-4 makes clear that the SRO's cannot use of the Section 19(b)(3)(A)(iii) shortcut to amend disciplinary procedures: a "proposed rule change ... that would ***amend the procedures for arbitration or disciplinary proceedings would not be a proper candidate to become effective under Section 19(b)(3)(A).***"¹² A rule change that has taken effect under 19(b)(3) can only be "enforced ... to the extent such rule is not inconsistent with the provisions of this chapter, the rules and regulations thereunder, and applicable Federal law." 15 U.S.C. § 78s(b)(3)(C).

2. FINRA is improperly applying the Zoom Amendment against Alpine inequitably and retroactively to a hearing already in progress,¹³ and after DOE enjoyed a live presentation for

¹¹ See 15 U.S.C. §§ 78s(d), (f), 78o *see also In Re Tower Trading, L.P.* Release No. 47537 (Mar. 19, 2003) ("Congress intended the resulting Commission review provision, Section 19(d), 'to encompass all final quasi-adjudicatory actions [by SROs] affecting members and non-members.'" (citation omitted)).

¹² See Securities Exchange Act Release No. 34-35123 (December 20, 1994) (emphasis added), available at <https://www.sec.gov/rules/final/19b4.txt>; *see also Fiero v. FINRA*, 660 F.3d 569, 578-79 (2d Cir. 2011) (holding that a purported "housekeeping rule" change was "improperly designated" as an immediately effective rule under Section 19(b)(3), and thus "***was never properly promulgated and cannot authorize FINRA to judicially enforce the collection of its disciplinary fines.***" (emphasis added)).

¹³ *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208, 215 (1988) (authority to promulgate rules does not "encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms," and that "administrative rules will not be construed to have retroactive effect unless their language requires this

its case in chief, to deprive Alpine of its fundamental and vested rights to an in-person hearing under FINRA Rule 9261 and “fair procedure” under 15 U.S.C. § 78o-3(b)(8), and its rights to due process of law under the United States Constitution. While FINRA may desire to elevate clearing its docket over respondents receiving a fair disciplinary process, the Commission has recognized that it has “statutory obligations to ensure fairness and integrity” in disciplinary proceedings and that “fundamental principle governing all SRO disciplinary proceedings is fairness.”¹⁴ The right to an in person hearing when one’s livelihood is on the line is no small matter, and cannot be approximated remotely. Courts have recognized as much for centuries:

Underlying both the constitutional principles and the rules of evidence is a preference for live testimony. Live testimony gives the jury (or other trier of fact) the opportunity to observe the demeanor of the witness while testifying. William Blackstone long ago recognized this virtue of the right to confrontation, stressing that through live testimony, “and this [procedure] only, the persons who are decide upon the evidence have an opportunity of observing the quality, age, education, understanding, behavior, and inclinations of the witness.”¹⁵

3. The Chief Hearing Officer’s August 9, 2021 order directing the remainder of the disciplinary proceeding against Alpine, in which FINRA seeks a death penalty, to proceed by Zoom due to “public health risks posed by an in-person hearing” is wholly arbitrary. FINRA has recognized such concerns do not warrant eliminating in person hearings in the much lower stakes of arbitration and mediation as of August 2, 2021.¹⁶

4. The Commission has stated that “[t]he purpose of Section 19(d) is to ensure that SRO enforcement of the federal securities laws and the SRO’s rules is performed diligently, and

result.”); *see also* *Kresock v. Bankers Tr. Co.*, 21 F.3d 176, 179 (7th Cir. 1994) (holding that changes to NASD’s arbitration code could not apply retroactively to conduct that occurred before the amendments became effective because “it is unfair to hold private parties accountable for rules which were not in effect at the time their relevant conduct took place.”

¹⁴ *See In re Jeffery Hayden*, 2000 SEC Lexis 946, 54 S.E.C. 651; *see also* 15 U.S.C. §780-3(b)(8).

¹⁵ *United States v. Yida*, 498 F.3d 945, 950 (9th Cir. 2007) (quoting 3 William Blackstone, Commentaries on the Laws of England 373-74 (1768)); *see also* *United States v. Burden*, 934 F.3d 675, 685 (2019).

¹⁶ *See* Ex. A and Ex. B hereto.

not unfairly or arbitrarily.”¹⁷ Such potential for arbitrary application is precisely why the Commission long ago *precluded* immediate effective changes to the Code of Procedure.

Alpine is therefore being adversely impacted by FINRA’s improper promulgation and application of the Zoom Amendment, and is seeking review within 30 days of the renewal of the Zoom Amendment and the FINRA order applying that amendment to Alpine. The Commission should grant this Application.

DATED this 9th day of September 2021.

Parsons Behle and Latimer



Aaron D. Lebenta
Jonathan D. Bletzacker

MARANDA FRITZ, P.C.



Maranda E. Fritz

Counsel for Alpine Securities Corporation

¹⁷ *Obligations of Self-Regul. Organizations with Respect to Final Disciplinary Actions, Denials, Bars, or Limitations Respecting Membership, Ass'n, Participation or Access to Servs., & Summary Suspensions*, Release No. 19969 (July 14, 1983).

Exhibit A

COVID-19 / Coronavirus

FINRA recognizes the significant impacts that the spread of coronavirus disease (COVID-19) may have on member firms, investors and other stakeholders.

FINRA is committed to providing guidance, updates and other information to help stakeholders stay informed about the latest developments. New information will be posted on this page as it becomes available.

Operating Status

Due to the COVID-19 outbreak, most FINRA staff are working remotely. FINRA remains fully operational through the support of our robust remote work capabilities and continues to carry out all of our regulatory responsibilities, protecting investors and market integrity.

[LEARN MORE >>](#)

Regulatory Operations and Guidance

Regulatory and Information Notices

Find guidance regarding pandemic-related business continuity planning, cybersecurity measures to consider and regulatory relief.

Frequently Asked Questions

FINRA is providing temporary relief for member firms from rules and requirements in the Coronavirus FAQ.

SEC Guidance

The SEC is providing assistance to various classes of market participants and certain specific entities including relief and guidance.

Arbitration Hearings Updated

Effective August 2, 2021, all FINRA DRS hearing locations are open for in-person arbitration and mediation proceedings.

FINRA-Administered Exams

View FINRA's updates about remote exams, the availability of Prometric test centers and any extensions for exam enrollment windows.

OHO Hearings

OHO is assessing on a case-by-case basis whether hearings will proceed in person or by videoconference.

Temporary Amendments to FINRA Rules

FINRA is temporarily amending FINRA rules pursuant to rule filings with the SEC.

Fingerprints

FINRA is providing a temporary extension of time for submission of fingerprint information under Rule 1010(d).

Membership Application Program

Pre-filing meetings and membership interviews for new and continuing membership applications will be conducted via video conference. FINRA will grant a courtesy extension on new or continuing membership applications, if needed.

Impact on FINRA Events & Conferences

The health and well-being of our employees and stakeholders is a top priority for FINRA. We continue to assess the current environment and hope to offer in-person events in the near future.

[LEARN MORE >>](#)

Watch FINRA's new [Virtual Conference Panels](#) to hear the most up-to-date compliance information directly from industry and regulatory experts right from the comfort of your home.

COVID Fraud Task Force

FINRA formed a COVID Fraud Task Force in March 2020 to establish a coordinated response across the organization to potential COVID-related fraud in the broker-dealer industry and in U.S. markets. The task force – a collaborative effort headed by Executive Vice President Greg Ruppert – manages a centralized repository of intelligence gathered from and accessed across the organization to help ensure efficiency and maximum coordination.

[LEARN MORE >>](#)

Investor Education

[The Coronavirus Is Novel, but Crisis-related Scams Are Nothing New](#)

Investors should be wary of schemes on the internet and social media claiming to raise money for companies promising new health care products that detect, treat, or cure COVID-19. While some could be legitimate, many will ring hollow, leaving investors with nothing but broken promises and empty pockets.

[COVID-19 Early Withdrawals](#)

FINRA, NASAA, and the staff of the SEC's Office of Investor Education and Advocacy have joined together to provide this warning to investors about promoters targeting retirement accounts, as well as to provide a few key considerations for investors thinking of using 401(k) withdrawals or loans to purchase securities.

[Fraud and Your Investment Accounts During COVID-19 Pandemic](#)

The COVID-19 pandemic is affecting most aspects of our society and daily lives, as well as the U.S. economy and markets. Events with such profound impact routinely create opportunities for financial fraud. This article highlights four common scams to look out for.

[Financial Peace of Mind in the Age of Coronavirus](#)

When it feels like so many things are out of our control, sometimes the best thing to do is focus on the things that are. Here are five questions to ask for some financial peace of mind in the age of coronavirus.

[Fraud and Coronavirus \(COVID-19\)](#)

Fraudulent schemes related to the coronavirus (COVID-19) pandemic have arrived, and they are coming in many forms, from investment fraud to fake CDC emails to phishing scams.

Use FINRA's Investor Complaint Center to report any potentially fraudulent or suspicious activities by brokerage firms or brokers.

State "Shelter-in-Place" and "Stay-at-Home" Orders

To aid member firms, FINRA is providing a list of state orders that impose workplace restrictions in response to the COVID-19 pandemic. Many of the orders list financial institutions as "essential" businesses and permit critical on site functions to continue, subject to limitations.

[LEARN MORE >>](#)

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FINRA IS A REGISTERED TRADEMARK OF THE FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.

Exhibit B



TO: Maranda E. Fritz
David S. Hunt, Esq.

From: Carlos Cohen-Leon
Case Specialist

Subject: FINRA Dispute Resolution Services Arbitration Number 21-00237
ACAP Financial, Inc. vs. Alpine Securities Corporation

Date: September 7, 2021

This letter is to inform you that **beginning August 2, 2021**, all FINRA Dispute Resolution Services (“DRS”) **hearing locations will be open for in-person arbitration and mediation proceedings**. The specific location details for this case will be sent under separate cover. The information in this letter pertains to cases with hearings scheduled to take place in August 2021 or thereafter.

By September 10, 2021, please provide FINRA DRS with the maximum number of individuals (e.g., counsel, co-counsel, paralegals, parties, non-party witness) that you anticipate will be in the hearing room **at the same time** so that we may determine the appropriate safety protocols and hearing room size.

FINRA DRS is committed to taking measures to ensure each hearing is safe for the hearing participants. FINRA DRS is reviewing the Centers for Disease Control and Prevention (“CDC”) guidance and consulting with public health experts to determine the appropriate safety protocols at each hearing venue. Details on exact safety protocols that will be in place for hearings will be sent under separate cover. These protocols may require:

- Hearings be held in venues large enough to allow social distancing;
- Hand sanitizer be provided in each room;
- Masks be required for all in-person participants and arrangements be made to provide masks to participants who do not have them;
- Plexiglas dividers and face shields be provided in the event that testifying witnesses must remove their masks; and
- In-person participants be provided with information on best practices when traveling to and attending the hearing.

All in-person participants, including arbitrators, will be required to fill out a daily health certification through FINRA’s survey system. A copy of this certification is attached for your reference. FINRA will email all in-person participants a link to the certification to be submitted electronically each day. FINRA will provide the chairperson (or an arbitrator designated by the

chairperson) a daily report of any in-person participants that did not fill out the certification. **Individuals may not participate in the hearing until they have filled out the certification for that day.**

Party requests for postponement or for use of telephonic testimony or videoconferencing will be decided by the arbitrators. FINRA is responsible for providing microphones and speakers (if required for social distancing protocols), and a recording device for each hearing. Parties are responsible for arranging and paying for all other audio-visual equipment, such as screens, cameras, telephones, or other equipment required for telephonic testimony or videoconferencing.

If you have any questions, please do not hesitate to contact me at (213) 613-2620 or by email at Carlos.Cohen-Leon@finra.org.

CC7:cc7:LC19E
idr: 07/28/2021

RECIPIENTS:

Maranda E. Fritz, 335 Madison Avenue, New York, NY 10017
On Behalf Of: Alpine Securities Corporation

David S. Hunt, Esq., David S. Hunt, PC, 66 Exchange Place, Suite 201, Salt Lake City, UT
84111
On Behalf Of: ACAP Financial Inc.; Kirk Lynn Ferguson

Health Certification Form for FINRA Hearing Participants

All individuals attending a FINRA hearing in person must complete this health certification form. The purpose of this screening is to protect hearing participants. If you are a hearing participant, you must complete this health certification form daily and provide the most current information available. You must update this form if conditions change at any time during the hearing.

You are not required to divulge personal medical information. You must read the following declaration of health and exposure conditions and affirm that none of these conditions apply to you. If you are unable to affirm these conditions, you will not be asked for details, but you may not enter FINRA facilities or participate in a FINRA-sponsored hearing in person.

Please review the following statements:

- I have not received a positive test result for COVID-19 in the past 14 days, nor am I awaiting COVID-19 test results.
- I am not currently under recommendation of quarantine or self-isolation by a medical or public health official/professional or other government entity.
- I have not been in close contact with any person I know has, or believe to have, contracted COVID-19, nor have I been informed by a medical or public health official/professional or anyone that I have been exposed to someone with COVID-19 in the last 14 days.
- I have not experienced any of the following symptoms that are new and cannot be attributed to a noncommunicable health condition in the last 14 days:
 - Fever (>100.4 F) or chills
 - Cough
 - Shortness of breath or difficulty breathing
 - Fatigue or weakness (from illness, not exertion)
 - Muscle or body aches (from illness, not exertion)
 - Headache
 - New loss of taste or smell
 - Sore throat
 - Congestion or runny nose
 - Nausea or vomiting
 - Diarrhea
- I am not aware of any person in my household who is currently in quarantine for exposure to COVID-19 or who is experiencing any of the above symptoms now or in the last 14 days.
- I am not aware of any person in my household who has received a positive test result for COVID-19 in the past 14 days or is awaiting COVID-19 test results.
- I am not aware of any person in my household who has received a recommendation to take a COVID-19 test within the past 14 days.

By checking this box I affirm that all the above statements are true to the best of my knowledge.

Sign : _____ Date: _____

If you have any questions regarding this process or statements above, please contact your Case Administrator.

Exhibit C

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ALPINE SECURITIES CORP.
(CRD No. 14952),

Respondent.

Disciplinary Proceeding
No. 2019061232601

Hearing Officer– CC

**ORDER CONFIRMING CONVERSION OF HEARING TO VIDEOCONFERENCE AND
CONVERTING FINAL PRE-HEARING CONFERENCE TO VIDEOCONFERENCE**

I. Background

The hearing in this matter was scheduled to take place February 18 to 28, 2020, in Salt Lake City, Utah. The hearing began as scheduled on February 18. Late in the day on February 22, the Hearing Officer temporarily adjourned the hearing, at the request of Alpine Securities' counsel because of a family emergency. As a result of several postponements necessitated by the COVID-19 pandemic, the hearing has not been completed.

The hearing was scheduled to resume in person on November 30, 2020, in the Washington, D.C. metropolitan area. On August 31, 2020, FINRA filed a proposed temporary rule change (SR-FINRA-2020-027) which amended FINRA Rules 9261 and 9830, among others, to allow hearings in connection with disciplinary actions and permanent cease and desist orders, if warranted by the current COVID-19-related public health risks posed by an in-person hearing, to be conducted by videoconference. After considering the guidance of FINRA's health and safety consultant in conjunction with COVID-19 data and guidance issued by public health authorities, on November 2, 2020, I ordered that the in-person hearing in this matter proceed by videoconference.

After hearing objections from the parties, the Hearing Officer postponed the November 30, 2020 resumption of the hearing by videoconference and ordered the parties to submit briefing on the issue of whether I should reconsider my November 2, 2020 order. After reviewing the parties' briefs, I issued a March 1, 2021 order declining to reconsider my November 2, 2020 order and ordering the parties to agree to new hearing dates in August or September 2021. I stated in the March 1, 2021 order that, after considering the guidance of FINRA's health and safety consultant in conjunction with COVID-19 data and guidance issued by public health

authorities, if I determine that the hearing can proceed in person, it will be held in the Washington, D.C. metropolitan area. I also stated that, six weeks prior to the hearing date, if the feasibility and safety of a traditional in-person hearing is uncertain, the hearing will proceed as ordered by videoconference.

The parties thereafter agreed to September 2021 hearing dates.

II. Confirmation of Conversion of Hearing to Videoconference

The parties are notified that the hearing in this disciplinary proceeding will resume **September 20 – 24, and September 27 – October 1, 2021 by videoconference.**

As the Hearing Officer indicated during the August 3, 2021 status conference, I again considered the guidance of FINRA's health and safety consultant in conjunction with COVID-19 data and guidance issued by public health authorities. I have determined that the feasibility and safety of a traditional in-person hearing is uncertain and accordingly confirm my November 2, 2020 order for the hearing to proceed by videoconference. FINRA, in conjunction with its outside health and safety consultant, has determined that the Washington, D.C. metropolitan area does not meet the criteria for holding an in-person hearing.

OHO has published information on the security features of its videoconference hearing process at <https://www.finra.org/rules-guidance/key-topics/covid-19/ohe-hearings>. OHO also provides an online Virtual Hearing Guide for Parties.

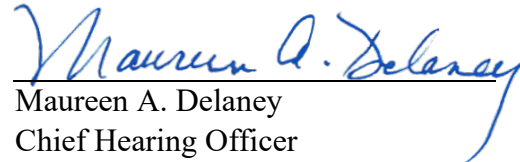
III. Conversion of Final Pre-Hearing Conference to Videoconference

The final pre-hearing conference will be held by Zoom videoconference on **September 2, 2021, at 2:00 p.m. (Eastern Time)**. Case Administrator April Blackwood will invite the attendees to the videoconference by email. To protect the security of the videoconference, access will be limited to authorized attendees only.

The parties are reminded that the Hearing Officer will conduct a status conference in this disciplinary proceeding on **August 11, 2021, at 2:00 p.m. (Eastern Time)** by telephone. The **conference call number is 833-445-1212, Meeting ID is 979 1405 2362, Password is 159623**. Any party who is unable to connect to the conference call shall immediately contact the Case Administrator, April Blackwood at 202-728-8202 or april.blackwood@finra.org.

Questions regarding this order may be directed to the Case Administrator, April Blackwood, at 202-728-8202 or april.blackwood@finra.org.

SO ORDERED.


Maureen A. Delaney
Chief Hearing Officer

Dated: August 9, 2021

Copies to:

Maranda Fritz, Esq. (via email)
Brian Lanciault, Esq. (via email)
Michael Cruz, Esq. (via email)
Savvas A. Foukas, Esq. (via email)
Douglas Ramsey, Esq. (via email)
Christopher J. Kelly, Esq. (via email)
Amanda Fein, Esq. (via email)
Pearline M. Hong, Esq. (via email)
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Gina M. Petrocelli, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)