

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940  
Release No. 5814 / August 3, 2021

Admin. Proc. File No. 3-19510

In the Matter of  
  
ALBERT K. HU

PROTECTIVE ORDER

The Securities and Exchange Commission (“Commission”) issued an order instituting proceedings (“OIP”) on September 24, 2019, pursuant to Section 203(f) of the Investment Advisers Act of 1940, against respondent Albert K. Hu (“Respondent”).<sup>1</sup> After the Respondent filed an answer, the Division of Enforcement and Respondent filed a joint statement following prehearing conferences, and the Division indicated that it intended to seek summary disposition, the Commission set a briefing schedule.<sup>2</sup> The briefing schedule noted that a motion for summary disposition may be made after the respondent’s answer has been filed and documents have been made available to the respondent pursuant to Commission Rule of Practice 230.<sup>3</sup> On July 1, 2021, the Commission issued an order granting the Division’s request for an extension of the briefing schedule, which the Division sought, in part, “for Hu to have time to review the investigative file” pursuant to Rule 230.<sup>4</sup> On July 15, 2021, the Division made a motion for entry of a protective order concerning the use and disclosure of sensitive personal or confidential

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<sup>1</sup> *Albert K. Hu*, Investment Advisers Act Release No. 5365, 2019 WL 4645968 (Sep. 24, 2019).

<sup>2</sup> *Albert K. Hu*, Investment Advisers Act Release No. 5754, 2021 WL 2474184 (June 16, 2021).

<sup>3</sup> *Id.* at \*1 n.4.

<sup>4</sup> *Albert K. Hu*, Investment Advisers Act Release No. 5763, 2021 WL 2726165 (July 1, 2021).

information in materials the Division has or will produce to Respondent.<sup>5</sup> The Division states that the materials contain personal or sensitive information of third parties.

Under Rule of Practice 322(b), a motion for a protective order “shall be granted only upon a finding that the harm resulting from disclosure would outweigh the benefits of disclosure.”<sup>6</sup> Respondent does not oppose the Division’s motion, and we find that no harm would result from granting a protective order, that the issuance of an order would benefit the orderly conduct of this administrative proceeding, and that the failure to issue a protective order would risk the disclosure of confidential information.<sup>7</sup> The Division also states that redacting the confidential information would be unduly burdensome. Under the circumstances, it appears that the applicable standard has been met and that it is appropriate to grant the Division’s motion.<sup>8</sup>

Accordingly, it is ORDERED that:

1. As used in this order, “Confidential Information” means (a) an individual’s social security number; (b) an individual’s birth date; (c) the name or initials of an individual known to be a minor; (d) a financial account number (including bank account, brokerage account, and investment account numbers), taxpayer-identification number, credit card or debit card number, passport number, driver’s license number, or state-issued identification number other than the last four digits of the number; (e) an individual’s financial account statements, including statements for any bank account, credit card account, brokerage account, mortgage, student loan, or other loan; (f) tax returns; (g) an individual’s home address (except the city and state) or personal phone number; and (h) personal medical information.

2. Respondent shall maintain the confidentiality of the Confidential Information, shall use it solely for the purposes of this proceeding, and shall not disclose it to any person

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<sup>5</sup> See Rule of Practice 230(b)(2)(ii), 17 C.F.R. § 201.230(b)(2)(ii) (stating that the Division may redact from documents certain information “with regard to a person other than the respondent to whom the information is being produced”).

<sup>6</sup> 17 C.F.R. § 201.322(c).

<sup>7</sup> See *Emmanuel Kouyoumdjian*, Exchange Act Release No. 90304, 2020 WL 6487975, at \*1–2 (Nov. 2, 2020) (granting unopposed motion for entry of a protective order concerning the use and disclosure of sensitive personal or confidential information of third parties where the Division sought to produce the information to the respondent).

<sup>8</sup> See, e.g., *Kouyoumdjian*, 2020 WL 6487975, at \*1–2; *LBB & Assoc.*, Exchange Act Release No. 85569, 2019 WL 1531832, at \*1 (Apr. 9, 2019) (granting motion for protective order to limit the disclosure of sensitive personal information).

except (a) counsel and other individuals assisting Respondent's counsel in Respondent's defense; (b) individuals who appear as witnesses at a hearing in this proceeding; (c) independent consultants or experts employed for the purpose of assisting Respondent in this proceeding and to whom it is necessary that the material be shown for the purposes of this proceeding; (d) Commissioners and Commission or court staff or personnel involved in this proceeding or any appeals therefrom; (e) stenographical and/or clerical personnel retained or assigned to work on matters relating to this action; and (f) other persons upon order by the Commission or a court, or by the Division's written consent (collectively, "Authorized Recipients"). Should either the Division or Respondent wish to publicly file any document containing any Confidential Information in this proceeding, the party making such filing will ensure that the Confidential Information is redacted in those copies submitted to the Office of the Secretary for public filing pursuant to Rule of Practice 151(e).<sup>9</sup> Before Respondent provides materials containing the Confidential Information to an Authorized Recipient, Respondent shall inform the Authorized Recipient that the materials are provided subject to the terms of this Protective Order and obtain written confirmation from the Authorized Recipient that the Authorized Recipient will comply with the provisions of this Order, provided however, that Respondent need not obtain such confirmation from persons described in subcategory (d) above.

3. Nothing contained in this order shall limit the ability of the Commission, or any of its Commissioners, staff, or personnel, to use and share information for lawful purposes, including without limitation those purposes described in Forms 1661 and 1662.<sup>10</sup>

4. Upon final termination of this proceeding, including any and all appeals ("Final Termination"), Respondent must, upon request of the Division, return all materials containing the Confidential Information to the Division, or must destroy the same, at the option of Respondent, and must take all commercially reasonable efforts to purge all such information from all machine-readable media on which it resides. Within thirty days of Final Termination, Respondent shall file a written certification in this proceeding with the Office of the Secretary stating that such return or destruction has been completed.

5. Nothing contained in this order shall prevent any party from disclosing confidential information to a court or governmental body when required to do so by statute, court order, or order of any regulatory agency.

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<sup>9</sup> 17 C.F.R. § 201.151(e).

<sup>10</sup> See <https://www.sec.gov/files/sec1661.pdf> (describing principal and routine uses of information obtained other than pursuant to Commission subpoena); <https://www.sec.gov/files/sec1662.pdf> (same as to information obtained voluntarily or pursuant to Commission subpoena).

6. This Protective Order shall be subject to modification by the Commission on the Commission's own motion or on motion of a party or any other person with standing concerning the subject matter.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Vanessa A. Countryman  
Secretary