

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93983 / January 14, 2022

Admin. Proc. File No. 3-20485

In the Matter of

ALPINE SECURITIES CORPORATION

ORDER GRANTING STIPULATED MOTION FOR ENTRY OF REVISED PROPOSED
STIPULATED PROTECTIVE ORDER

On August 26, 2021, the Securities and Exchange Commission issued an order instituting administrative proceedings (“OIP”) against Alpine Securities Corporation.¹ The OIP alleged that a federal district court had entered a permanent injunction against Alpine and instituted proceedings to determine whether any remedial action was in the public interest.²

On October 15, 2021, the Division of Enforcement filed a Stipulated Motion for Entry of Stipulated Protective Order (“Stipulated Motion”) pursuant to Commission Rule of Practice 322.³ The Division represented that Alpine had stipulated to the relief sought in the motion. The Division also attached a protective order entered by the district court that had entered the permanent injunction against Alpine (the “Civil Action Protective Order”).

In the Stipulated Motion, the Division represented that its investigative file contains documents that “comprise, include, or reflect the existence or non-existence of” Suspicious Activity Reports (“SARs”) filed with the U.S. Treasury Department’s Financial Crimes Enforcement Network (“FinCEN”) pursuant to the Bank Secrecy Act (“BSA”) and its implementing regulations. Those regulations provide that a Federal government authority or any director, officer, employee, or agent of such an authority “shall not disclose a SAR, or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties

¹ *Alpine Sec. Corp.*, Exchange Act Release No. 92775, 2021 WL 3836056 (Aug. 26, 2021).

² *Id.*; see also *SEC v. Alpine Sec. Corp.*, 413 F. Supp. 3d 235, 251 (S.D.N.Y. 2019) (explaining imposition of permanent injunction against Alpine), *aff’d*, 982 F.3d 68 (2d Cir. 2020), *cert. denied*, 142 S. Ct. 461 (2021).

³ 17 C.F.R. § 201.322(a), (c) (providing for entry of protective order “upon a finding that the harm resulting from disclosure would outweigh the benefits of disclosure”).

consistent with Title II of the Bank Secrecy Act.”⁴ They also provide that, generally, “[n]o broker-dealer, and no director, officer, employee, or agent of any broker-dealer, shall disclose a SAR or any information that would reveal the existence of a SAR.”⁵

On November 18, 2021, the Commission requested additional briefing to aid its consideration of the Stipulated Motion.⁶ On December 9, 2021, the Division and Alpine filed a joint response to this briefing order and a revised version of the proposed order attached to the Stipulated Motion (the “Revised Proposed Stipulated Protective Order”).

In the joint response to the briefing order, the Division represented that it has “consulted with staff of FinCEN and understands that” the Revised Proposed Stipulated Protective Order is “acceptable to FinCEN” and that the Division “understands that the staff of FinCEN does not object to” the parties’ statements in the joint response. The joint response states that the “Parties do not believe that the Proposed Order, the Civil Action Protective Order, the BSA, or the BSA’s implementing regulations prohibit the Parties or the Commission from citing and discussing any information contained in [the] public judicial decisions” in the underlying federal civil action.⁷

Under Commission Rule of Practice 322(c), “[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.”⁸ Here, we find that this standard has been satisfied because the BSA’s implementing regulations specifically prohibit or limit disclosure of SARs and certain related information. Given the Division’s representation that the Revised Proposed Stipulated Protective Order is acceptable to FinCEN, we find it appropriate to issue the order as proposed.⁹

⁴ 31 C.F.R. § 1023.320(e)(2); *see also* 31 U.S.C. § 5318(g)(2)(A)(ii) (“[N]o current or former officer or employee of or contractor for the Federal Government . . . , who has any knowledge that [a report of a suspicious transaction] was made may disclose to any person involved in the transaction that the transaction has been reported, or otherwise reveal any information that would reveal that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.”).

⁵ 31 C.F.R. § 1023.320(e)(1)(i).

⁶ *Alpine Sec. Corp.*, Exchange Act Release No. 93611, 2021 WL 5397117 (Nov. 18, 2021).

⁷ *See, e.g., SEC v. Alpine Sec. Corp.*, 308 F. Supp. 3d 775, 783-88 & n. 4 (S.D.N.Y. 2018).

⁸ 17 C.F.R. 201.322(c).

⁹ We have made typographic corrections to capitalize the term Stipulating Parties in paragraph 6.f. and add the word Stipulating before Parties in the last sentence of paragraph 13.

Accordingly, the Stipulated Motion for Entry of Stipulated Protective Order, as modified by the parties' supplemental submission, is GRANTED; and the Revised Proposed Stipulated Protective Order is entered in the form attached hereto as Exhibit A.

By the Commission.

Vanessa A. Countryman
Secretary

EXHIBIT A

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93983 / January 14, 2022

Admin. Proc. File No. 3-20485

In the Matter of

ALPINE SECURITIES CORPORATION

PROTECTIVE ORDER

WHEREAS, the Division of Enforcement (the “Division”) and Respondent Alpine Securities Corporation (“Respondent”) (collectively, the “Stipulating Parties”) request that the Commission issue a protective order pursuant to Commission Rule of Practice 322 to protect the confidentiality of nonpublic sensitive information disclosed in connection with this administrative proceeding (“AP”);

WHEREAS, the Stipulating Parties seek to make available, produce, and use certain documents that include or reflect the existence or non-existence of a Suspicious Activity Report (“SAR”) filed with the U.S. Department of the Treasury’s Financial Crimes Enforcement Network pursuant to the Bank Secrecy Act (“BSA”) and its implementing regulations in connection with this AP;

WHEREAS, documents and information that include or reflect the existence or non-existence of a SAR are protected from certain types of disclosure by the BSA and related regulations;

WHEREAS, the Division represents that it has consulted with the U.S. Department of the Treasury’s Financial Crimes Enforcement Network and determined that it may make available and produce, and the Stipulating Parties may use, documents and information that include or reflect the existence or non-existence of a SAR in the litigation of this AP subject to a protective order;

WHEREAS, the United States Securities and Exchange Commission and Respondent are parties to the civil action entitled *Securities and Exchange Commission v. Alpine Securities Corporation*, Civil Action Number 1:17-cv-04179, in the United States District Court for the Southern District of New York (“Civil Action”);

WHEREAS, the Court in the Civil Action entered a protective order dated September 25, 2017 (Docket No. 38) (“Civil Action Protective Order”) that governs the production and use of discovery material that comprises, includes or reflects the existence or non-existence of a SAR filed with the U.S. Treasury Department’s Financial Crimes Enforcement Network pursuant to the BSA and its implementing regulations;

WHEREAS, the Civil Action Protective Order remains binding on the parties to the Civil Action regarding discovery material produced during the Civil Action; and

WHEREAS, the Commission finds good cause exists for issuance of an appropriately tailored protective order governing certain uses or disclosures of confidential documents and information that include or reflect the existence or non-existence of a SAR in this AP;
IT IS HEREBY ORDERED:

1. As used in this protective order, “Discovery Material” shall mean all information, documents, testimony, and other things produced in this action that contain non-public, confidential, proprietary, or sensitive information, whether personal or business-related, and any copies, excerpts, summaries, derivations or compilations of any of the foregoing contained in any pleadings, reports, discovery responses, correspondence, documents or things.

2. As used in this protective order, the term “Producing Party” shall refer to the party producing Discovery Material in this AP. The term “Receiving Party” shall refer to the party or parties in this AP who receive Discovery Material.

3. As used in this protective order, “SAR Discovery Material” shall mean any document or other tangible Discovery Material disclosed or produced in connection with this AP labeled “SAR” or otherwise designated as SAR Discovery Material, as well as any subsequent document produced or created by any party in this proceeding, or by the Commission and any of its employees, that contains, identifies, or references any information contained in any SAR Discovery Material.

4. A party producing or disclosing Discovery Material in this AP may label and designate Discovery Material a “SAR” if it comprises, includes or reflects the existence or non-existence of a SAR filed with the U.S. Department of the Treasury’s Financial Crimes Enforcement Network pursuant to the BSA and its implementing regulations, including all documents or records upon which a financial institution relied in making the determination that certain activity required a SAR filing, and any document that specifically states that a SAR was or was not filed, including: (a) the SAR itself; (b) communications pertaining to the SAR or its contents; (c) communications that follow the filing of the SAR and are explanations or follow-up; (d) communications preceding the filing of the SAR or preparatory to it; (e) communications concerning possible violations that did not result in a filing; (f) documents representing drafts of SARs or other work product or privileged communications that relate to the SAR itself because they would disclose whether a SAR has been prepared or filed; and (g) SAR production letters from financial institutions to law enforcement agencies or regulators.

5. Any party receiving Discovery Material designated as a SAR shall:

- a. allow no person other than those listed below in paragraph 6 to view the material unless a Party obtains an order of the Commission or hearing officer declaring that all or certain portions of such Discovery Material are not, in fact, protected or should be subject to different treatment; and
- b. not disclose the contents of the material to any other person, except during a hearing in this AP.

6. SAR Discovery Material disclosed or produced in connection with this AP may only be disclosed or produced to the following persons, on an as needed basis in the course of this litigation, with reasonable precautions taken to ensure the confidentiality of the information:

- a. The Respondent and its principals, officers, and/or employees;
- b. Counsel of record for the Respondent and supporting personnel;
- c. The Securities and Exchange Commission and its employees, agents, or contractors;
- d. A hearing officer in this proceeding and the staff of the Office of Administrative Law Judges;
- e. Stenographic reporters, videographers, litigation support vendors, photocopying vendors, and other clerical personnel retained for services related to this litigation;
- f. Experts or consultants of the Stipulating Parties;
- g. Fact witnesses; or
- h. Such other persons as hereafter may be authorized by either (1) written consent of the parties or (2) the Commission or hearing officer upon motion of a party.

7. A copy of this protective order shall be delivered to each of the named parties or persons within paragraph 6 above to whom a disclosure of SAR Discovery Material is made in connection with this AP, at or before the time of disclosure, by the party making the disclosure. The provisions of this protective order shall be binding upon each person to whom disclosure is made.

8. Counsel who makes SAR Discovery Material available to persons set forth in paragraph 6 above shall make their best efforts with respect to limiting distribution thereof to the persons authorized under this protective order. Any person having access to such Discovery Material whose participation in this litigation has been terminated or otherwise concluded shall: (i) destroy all such Discovery Material; (ii) return all such Discovery Material to the Producing Party's counsel of record, as soon as practicably possible thereafter, but in no event longer than thirty (30) days after the termination or conclusion of the participation; or (iii) maintain such Discovery Material in a safe and secure location until such time as permitted to destroy or return such Discovery Material under applicable rules and/or regulations.

9. The provisions of this protective order shall not be construed as preventing:

- a. Any disclosure of SAR Discovery Material to any party to this action; or

- b. Any disclosure of SAR Discovery Material to the hearing officer, staff of the Office of Administrative Law Judges, or any member or employee of the Commission for any purposes of this action.

10. Notwithstanding any other provision of this order, the Division may use and disclose, without notice to the Respondent or any other person, any SAR Discovery Material to the extent permitted by law in conjunction with its obligations and responsibilities to investigate potential violations of, and enforce, the federal securities laws.

11. Except as otherwise ordered, SAR Discovery Material may be used or submitted to the Commission or hearing officer in connection with any filing or proceeding in this AP under the following terms: a filing that contains SAR Discovery Material may initially be filed under seal without redactions, and the Office of the Secretary shall accept such filing without an accompanying “public” (i.e., redacted) version. If a document is filed under seal, it may be disclosed to the parties or persons under paragraph 6. Within three business days of the initial filing, any Stipulating Party shall move the Commission or hearing officer to accept a redacted or otherwise protected version of the filing for use as a “public” copy.

12. The foregoing is entirely without prejudice to the right of any party to apply to the Commission or hearing officer for any further protective order relating to confidential information or SAR Discovery Material; or to challenge the designation of any Discovery Material as SAR Discovery Material pursuant to this protective order; or to object to the production of documents or information; or to apply to the Commission or hearing officer for an order compelling production of documents or information; or for modification of this Order; or to seek any other relief from the Commission or hearing officer.

13. Within 60 days of the final disposition (including all appeals) of this AP, whichever is later, all recipients of SAR Discovery Material in this proceeding must: (i) return it, including all copies thereof, to the Producing Party; (ii) destroy such material, including all copies thereof; or (iii) maintain such material in a safe and secure location until such time as permitted to destroy or return such material under applicable rules and/or regulations. Notwithstanding this provision, attorneys that the Stipulating Parties have specifically retained for this AP may retain archival copies of all draft and final pleadings, motion papers, transcripts, expert reports, legal memoranda, correspondence, attorney work product, or documents that constitute the record of action in this proceeding, even if such materials contain SAR Discovery Material. Further, notwithstanding this provision, the Commission and its staff, the Office of the Secretary and its staff, and the Office of the General Counsel and its staff may retain, as applicable, archival copies of all draft and final internal analyses and communications, opinions, orders, pleadings, motion papers, transcripts, expert reports, legal memoranda, correspondence, attorney work product, or documents that constitute the record of action in this proceeding, even if such materials contain SAR Discovery Material. Any such archival copies that contain or constitute SAR Discovery Material shall continue to be protected under the terms of this protective order. Nothing in this paragraph shall require the Stipulating Parties, the Commission and its staff, the Office of the Secretary and its staff, or the Office of the General Counsel and its staff, to search for and destroy any electronic mail that contains or reflects SAR Discovery

Material, including attachments, provided that precautions have been taken to protect the confidentiality and security of the relevant electronic mail system.

14. This protective order will survive the termination of the AP, and will continue to be binding upon all persons to whom SAR Discovery Material is produced or disclosed.

15. The Commission or hearing officer will retain jurisdiction over all persons subject to this protective order to the extent necessary to enforce any obligations arising hereunder or to impose sanctions for any contempt thereof.

By the Commission.

Vanessa A. Countryman
Secretary