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Client Alert: FINRA Issues Administrative Order and Decision Regarding Alpine Sanctions

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On March 25, 2025, the Financial Industry Regulatory Authority (FINRA) issued a 100-page Administrative Order and Decision confirming and modifying its sanctions of Alpine Securities Corporation, which include expulsion from FINRA membership, a modification of the order to pay \$2.3 million in restitution to its customers (reduced to \$802,678), and an order to comply with modified cease and desist requirements.

This development comes after years of legal battling, during which Alpine (1) lost a petition in the District Court for the District of Columbia to enjoin FINRA's then-expedited proceeding; (2) later won an emergency injunction pending its appeal from the D.C. Circuit Appellate Court in July of 2023; and then (3) enjoyed a partial victory in a narrow holding by the D.C. Circuit in November of 2024, which reversed the District Court's denial of a preliminary injunction only with respect to Alpine's expulsion from FINRA without Securities and Exchange Commission (SEC) review. While the circuit court refused to enjoin the entire FINRA enforcement proceeding, it legitimized concerns about delegating such significant enforcement power to a private self-regulatory organization.

Since then, on February 18, Alpine applied to the Supreme Court for a stay of the FINRA proceedings seeking to confirm their expulsion from FINRA membership. Although Chief Justice Roberts denied the application for a stay on March 14, Alpine's constitutional arguments regarding the private nondelegation doctrine and the Appointments Clause remain at issue should the Supreme Court grant certiorari and take the case.

In the interim, Alpine has an opportunity to appeal yet again. The expulsions contained within the decision do not become effective until either (1) 90 days after the time for Alpine to appeal the decision to the Commission has expired and no appeal is taken, or (2) if an appeal is taken, after the Commission issues a final order on the merits of Alpine's appeal that sustains FINRA's expulsion of the firm from FINRA membership. During the 90-day period before the expulsions become effective, Alpine cannot conduct securities business, with a few exceptions.

Given that the Supreme Court only hears about one percent of the cases petitioned each year, Alpine's odds are slim. However, should the Supreme Court add Alpine's case to its calendar, the constitutional legitimacy

of FINRA's enforcement arm could be at issue next summer.

Please do not hesitate to reach out to the author of this article or a member of our team for more information.