

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Rel. No. 53231 / February 6, 2006

Admin. Proc. File No. 3-12139

In the Matter of the Application of

DOMINIC A. ALVAREZ  
c/o Steven Altman, Esq.  
Altman & Company, P.C.  
260 Madison Avenue, 22nd Floor  
New York, NY 10016

ORDER SCHEDULING BRIEFS  
AND DENYING CONFIDENTIAL  
TREATMENT

On December 28, 2005, pursuant to Section 19(d)(2) of the Securities Exchange Act of 1934, 1/ Dominic A. Alvarez filed an application for review of a default decision by NASD barring Alvarez from association with any NASD member firm for his failure to respond to requests for information and his failure to appear and testify, in violation of NASD Conduct Rules 8210 and 2110. 2/ Alvarez also filed an application seeking “confidential treatment” for his application for review, “on the ground that it contains Mr. Alvarez’s sensitive private information regarding a medical condition.”

The Commission has long underscored the importance of conducting open administrative proceedings that, “with attendant public scrutiny, have the effect of protecting against the abuse of power by governmental entities.” 3/ Commission administrative proceedings, and the documents filed by parties pursuant to those proceedings, generally are accessible to the public unless the circumstances warrant a departure from the norm in accordance with our Rules of Practice. 4/

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1/ 15 U.S.C. § 78s(d)(2).

2/ NASD filed a copy of the index to the record on January 27, 2006 pursuant to Rule of Practice 420(d), 17 C.F.R. § 201.420(d).

3/ Disciplinary Proceedings Involving Professionals Appearing or Practicing Before the Commission, 53 Fed. Reg. 26427, 26428-29 (July 13, 1988) (final rule amendment).

4/ See, e.g., Rules of Practice 102(e)(7), 17 C.F.R. § 201.102(e)(7), and 301, 17 C.F.R. § 201.301.

Alvarez has not identified what information he would like to keep from disclosure, and has not provided any facts that would assist us in reaching a conclusion as to whether the harm resulting from disclosure would outweigh the benefits. Although Rule of Practice 322 allows a party to seek to “limit from disclosure to other parties or to the public documents or testimony that contain confidential information,” 5/ the Commission will grant such a motion “only upon a finding that the harm resulting from disclosure would outweigh the benefits of disclosure.” 6/ Therefore, we deny Alvarez’s motion for a protective order. If Alvarez nonetheless wishes to seek protection for certain information, he may submit with his brief in support of his application for review a more detailed request for a protective order. Such motion should clearly identify which information Alvarez seeks to protect and should offer an explanation as to why the harm resulting from disclosure would outweigh the benefits of disclosure.

Accordingly, IT IS ORDERED, pursuant to Rule 450(a) of the Rules of Practice, 7/ that a brief in support of Alvarez’s application for review shall be filed by March 8, 2006. A brief in opposition shall be filed by April 7, 2006, and any reply brief shall be filed by April 21, 2006. 8/ Pursuant to Rule of Practice 180(c), 9/ failure to file a brief in support of the application may result in dismissal of this review proceeding.

By the Commission.

Nancy M. Morris  
Secretary

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5/ 17 C.F.R. § 201.322(a). Rule 322 could be an appropriate vehicle for Alvarez’s request. Although Rule of Practice 190, 17 C.F.R. § 201.190, provides for the “confidential treatment” of certain filings, none of those filings appear to be at issue in this case. Similarly, Alvarez’s filing does not comport with the procedures for requesting confidential treatment under the Freedom of Information Act. See 17 C.F.R. § 200.83.

6/ 17 C.F.R. § 201.322(b).

7/ 17 C.F.R. § 201.450(a).

8/ As provided by Rule 450(a), no briefs in addition to those specified in this schedule may be filed without leave of the Commission. Attention is called to Rules 150-153, 17 C.F.R. §§ 201.150-201.153, with respect to form and service, and Rule 450(b) and (c) with respect to content and length limitations. Requests for extensions of time to file briefs will be disfavored.

9/ 17 C.F.R. § 201.180(c).