SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 102538 / March 7, 2025

Admin. Proc. File No. 3-19896

In the Matter of the Application of

SILVER LEAF PARTNERS, LLC

For Review of Disciplinary Action Taken by

FINRA

OPINION OF THE COMMISSION

REGISTERED SECURITIES ASSOCIATION — REVIEW OF DISCIPLINARY PROCEEDING

FINRA member firm paid transaction-based compensation to non-members and failed to establish and implement effective systems to prevent such payments and to govern one of its business lines. *Held*, FINRA's findings of violations and imposition of sanctions are *sustained*.

APPEARANCES:

Mohamed Fyzul Khan for Silver Leaf Partners, LLC.

Michael M. Smith for FINRA.

Appeal filed: July 28, 2020
Last brief received: November 16, 2020

Silver Leaf Partners, LLC, a FINRA member, seeks review of FINRA disciplinary action.[1] FINRA found that Silver Leaf violated NASD and FINRA rules by paying transaction-based compensation to non-member brokers and failing to establish and maintain a reasonably

[1] *Dep't of Enf't v. Silver Leaf Partners*, Complaint No. 2014042606902 (NAC June 29, 2020).

designed supervisory system to prevent those payments. FINRA also found that Silver Leaf failed to reasonably supervise its "Corporate Advisory" business by, among other things, having no written supervisory procedures ("WSPs") for that business despite knowing the risks it involved. We sustain FINRA's findings of violations and imposition of sanctions.

I. Background

Fyzul Khan and Kevin Meehan founded Silver Leaf in 2003, and the firm has been a FINRA member since then. During the relevant time, Khan was Silver Leaf's majority owner, CEO, and chief compliance officer, while Meehan was the firm's president, CFO, and financial and operations principal ("FINOP"). Silver Leaf engaged in two business lines relevant here: Fund Marketing and Corporate Advisory.

Silver Leaf's Fund Marketing business provided "introductory and marketing services" to private fund managers seeking introductions to institutional investors. Typically, Silver Leaf would enter into a contract with the fund manager under which the firm would agree to use its best efforts to identify prospective investors and introduce them to the manager.

Through its Corporate Advisory business, Silver Leaf found counterparties for clients "seeking introductions to investor capital, debt, or other financial arrangements," including stock loans and block trades. Jay Chapler, the firm's managing director and head of the Corporate Advisory business, largely built Silver Leaf's Corporate Advisory business after becoming associated with Silver Leaf in 2010.

For both the Fund Marketing and Corporate Advisory businesses, whenever Silver Leaf's introduction led to a transaction, Silver Leaf received a fee based on the size of that transaction. Silver Leaf retained a percentage of that fee and passed the rest on to the registered person who made the introduction. Khan oversaw both businesses and was responsible for Silver Leaf's general compliance supervision. Khan approved the firm's WSPs and was tasked with reviewing and updating them. He was also responsible for supervising the firm's associated persons, reviewing and approving transactions, and reviewing and approving correspondence.

II. Procedural History

In September 2017, FINRA's Department of Enforcement ("Enforcement") filed a complaint against Silver Leaf, alleging that, from 2012 to 2015, the firm paid transaction-based compensation to an "unregistered finder," who referred potential transactions to the firm, and to seven non-member entities affiliated with Silver Leaf registered persons in violation of NASD Rule 2420[2] and FINRA Rule 2010. The complaint also alleged that Silver Leaf violated NASD

[2] FINRA Rule 2040 superseded NASD Rule 2420 in August 2015, after the relevant facts here occurred. *See Payments to Unregistered Persons*, FINRA Notice 15-07, 2015 WL 1896636 (Mar. 20, 2015).

Rule 3010 (and its successor, FINRA Rule 3110)[3] and FINRA Rule 2010 by failing to establish and maintain a supervisory system, including WSPs, reasonably designed to ensure compliance with FINRA rules.

After holding a six-day hearing, a FINRA extended hearing panel issued a decision in January 2019, finding that Silver Leaf paid transaction-based compensation to non-member brokers and failed to establish and maintain a supervisory system reasonably designed to prevent those payments. The panel also found that Silver Leaf failed to reasonably supervise its Corporate Advisory business by, among other things, having no WSPs for that business despite knowing the risks it involved.

For Silver Leaf's violations related to its payment of transaction-based compensation to non-members, the hearing panel fined the firm $50,000. For Silver Leaf's supervisory violations, the hearing panel fined the firm $50,000, ordered it to engage an independent consultant to review its supervisory systems and procedures, and barred it "from directly or indirectly facilitating stock loan or block trading transactions."

Silver Leaf appealed that decision to FINRA's National Adjudicatory Council (the "NAC"), which affirmed the hearing panel's findings of violations but modified the sanctions imposed. For the violations related to paying transaction-based compensation to non-members, the NAC affirmed the $50,000 fine. For the supervisory failures, the NAC also affirmed the $50,000 fine and the requirement to hire an independent consultant to improve Silver Leaf's supervisory procedures. But instead of a business-line bar, the NAC suspended Silver Leaf from engaging in its Corporate Advisory business until it certified that it had implemented the consultant's recommendations.

This appeal to the Commission followed.

III. Violations

We review FINRA disciplinary action to determine (1) whether an applicant engaged in the conduct FINRA found; (2) whether that conduct violated the provisions specified in FINRA's determination; and (3) whether those provisions are, and were applied in a manner,

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[3] FINRA Rule 3110 superseded NASD Rule 3010 in December 2014. *See SEC Approves New Supervision Rules*, FINRA Notice 14-10, 2014 WL 1133588 (Mar. 19, 2014). The relevant facts here occurred both before and after that date.

consistent with the purposes of the Securities Exchange Act of 1934.[4] We base our findings on an independent review of the record and apply a preponderance of the evidence standard.[5]

A. FINRA may find violations of its rules in connection with non-domestic securities transactions.

As a threshold matter, Silver Leaf argues that FINRA lacks authority to bring this disciplinary proceeding because the firm's alleged misconduct purportedly occurred only in connection with foreign securities transactions. This argument has no merit. Even assuming, *arguendo*, that all the alleged violations involved solely foreign securities transactions, Silver Leaf agreed to be bound by FINRA's rules by entering into a membership agreement with FINRA. And while FINRA's rules allow for certain compensation payments to non-members in foreign countries under specific conditions, Silver Leaf does not argue (and the evidence does not show) that those provisions applied here.[6] Nor does Silver Leaf contend that either its membership agreement or FINRA's by-laws otherwise limited FINRA from enforcing its rules with respect to the foreign transactions here.[7]

Rather, Silver Leaf claims more generally that *Morrison v. National Australia Bank Ltd.*[8] and two cases that applied that decision—*Absolute Activist Master Fund Ltd. v. Ficeto*[9] and *SEC v. Benger*[10]—establish that FINRA lacks authority to discipline members for misconduct involving foreign transactions. Those cases are inapposite, however, as all three cases dealt with the question of whether the Exchange Act applies to activity in connection with foreign transactions.[11] In answering that question, the Supreme Court explained that federal laws will be

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4 15 U.S.C. § 78s(e)(1).

5 *See Richard G. Cody*, Exchange Act Release No. 64565, 2011 WL 2098202, at *9 & n.7 (May 27, 2011), *aff'd,* 693 F.3d 251 (1st Cir. 2012).

6 *See* NASD Rule 2420(c) (providing conditions for transactions with members in a foreign country who are not eligible for membership), FINRA Rule 2040(c) (similar).

7 *Cf. Int'l Bd. of Teamsters v. Amerijet Int'l, Inc*., 604 F. App'x 841, 851–53 (11th Cir. 2015) (holding that "any extraterritoriality implications arising from an agreement will be driven by the agreement's terms"); *Daniel C. Adams*, Exchange Act Release No. 19915, 1983 SEC LEXIS 1367, at *5 (June 27, 1983) (holding "that [FINRA's] disciplinary authority is broad enough to encompass business-related activity that contravenes [its] standards even if that activity does not involve a security" (citation omitted)).

8 561 U.S. 247 (2010).

9 677 F.3d 60 (2d Cir. 2012).

10 934 F. Supp. 2d 1008 (N.D. Ill. 2013).

11 *Morrison*, 561 U.S. at 250, 273; *Absolute Activist*, 677 F.3d at 70; *Benger*, 934 F. Supp. 2d at 1016.

presumed to have only domestic application absent clearly expressed congressional intent to the contrary.[12] But FINRA's case against Silver Leaf did not allege violations of federal laws, such as the Exchange Act. FINRA applied only its own rules, as a private association, which as discussed next, prohibited the payments at issue here.

B. Silver Leaf violated FINRA rules against paying transaction-based compensation to non-members.

At the relevant time here, NASD Rule 2420 prohibited any FINRA member firm from paying transaction-based compensation to any "non-member broker or dealer," *i.e.*, a broker or dealer who is not a member of FINRA or another securities association registered with the Commission.[13] Transaction-based compensation means "compensation tied to the successful completion of a securities transaction."[14] A violation of NASD Rule 2420 is also a violation of FINRA Rule 2010, which requires member firms to observe high standards of commercial honor and just and equitable principles of trade.[15] We sustain FINRA's finding that Silver Leaf violated these rules by paying transaction-based compensation to non-members.

1. Silver Leaf engaged in the conduct that FINRA found by paying transaction-based compensation to non-members.

In April 2012, Chapler, Silver Leaf's managing director and head of its Corporate Advisory business, entered into an agreement with Sam Halim, the chief executive officer of North American Physicians, Inc. ("NAPI"), pursuant to which they would share Chapler's commissions on any transactions that Halim sourced.[16] Halim was never associated with Silver Leaf or any other FINRA member firm, and neither Halim nor NAPI ever registered with

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[12] 561 U.S. at 255.

[13] NASD Rule 2420(b)(1), (d), https://www.finra.org/rules-guidance/rulebooks/retired-rules/2420 (last visited Mar. 5, 2025). A "broker" is a "person engaged in the business of effecting transactions in securities for the account of others," 15 U.S.C. § 78c(a)(4)(A); FINRA By-Laws, Art. I(e), and "[a]ctivities . . . indicative of being a broker include . . . negotiating with issuers[] and receiving transaction-based compensation." *James S. Tagliaferri*, Exchange Act Release No. 80047, 2017 WL 632134, at *4 (Feb. 15, 2017) (citing *Anthony Fields*, Advisers Act Release No. 4028, 2015 WL 728005, at *18 (Feb. 20, 2015)).

[14] *Order Exempting the Fed. Rsrv. Bank of NY, Maiden Lane LLC and the Maiden Lane Com. Mortg. Backed Sec. Trust 2008-1 from Broker-Dealer Registration*, Exchange Act Release No. 61884, 2010 WL 1419216, at *2 (Apr. 9, 2010).

[15] *See, e.g.*, *Kenny Akindemowo*, Exchange Act Release No. 79007, 2016 WL 5571625, at *5 n.3 (Sept. 30, 2016) ("[A] violation of an SRO rule is conduct inconsistent with just and equitable principles of trade and therefore is also a violation of FINRA Rule 2010.").

[16] Silver Leaf was not a party to this agreement.

FINRA. But Halim had contacts in Turkey, and he, Khan, and Chapler discussed how Halim would help Chapler source corporate advisory transactions, particularly in Turkey and Middle Eastern markets. Khan testified that he saw Halim as a "potential new broker" for the firm.

In 2012, Halim introduced Chapler to a company looking to sell a large block of stock. Chapler found a counterparty to purchase the stock and, after the transaction closed, the seller paid Silver Leaf a commission. Silver Leaf retained a portion of the commission and sent the remainder to Chapler, who then sent a portion of his commission to Halim's business. Before the commissions were paid, Meehan, Silver Leaf's president, CFO, and FINOP, emailed Chapler and attached a spreadsheet that included Meehan's determination of the amount to be paid to Halim. For a subsequent transaction, Chapler sent an email to Khan and Meehan attaching a spreadsheet that included the amount for Halim's commission, to which Meehan replied, copying Khan, "Jay this seems straightforward to me." And Khan and Chapler later exchanged emails discussing Halim's commissions for another transaction. As these emails demonstrate, both Khan and Meehan knew about these payments to Halim. Yet neither took any action to stop them.

Unrelated to the above transactions, Silver Leaf also paid more than $2.6 million in transaction-based compensation to seven limited liability companies, which certain of the firm's registered representatives working in its Fund Marketing business had created, but which were never registered with FINRA (the "Unregistered LLCs"). The payments, which Khan approved, represented commissions that the registered representatives had earned on securities transactions on Silver Leaf's behalf.

Notably, Silver Leaf made these payments after Commission staff had warned Silver Leaf following a routine examination in 2012 that payments to the Unregistered LLCs were one of the firm's "deficiencies and weaknesses." Silver Leaf represented to Commission staff that Silver Leaf would stop the practice until it had obtained a no-action letter from staff. But a few months later, Silver Leaf resumed paying the Unregistered LLCs, without engaging in the no-action process or otherwise consulting with or notifying Commission or FINRA staff.[17]

2. Silver Leaf's transaction-based payments to Halim and the Unregistered LLCs violated FINRA rules.

As discussed above, Silver Leaf, through Chapler, paid transaction-based compensation to Halim's business, a non-member broker.[18] Silver Leaf also paid transaction-based

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[17] *Cf. B.R. Stickle & Co.*, Exchange Act Release No. 33705, 1994 WL 69413, *2 (Mar. 3, 1994) (stating that an individual, if confused about the NASD requirements for his registration, "should have inquired further of the NASD").

[18] *See Crowdfunding*, 80 Fed. Reg. 71,388, 71,453 n.907 (Nov. 16, 2015) (noting that "the receipt of direct or indirect transaction-based compensation would strongly indicate that the

compensation to the seven non-member Unregistered LLCs. In doing so, Silver Leaf plainly violated NASD Rule 2420's prohibition against FINRA member firms' paying transaction-based compensation to any non-member broker or dealer and, as a result, also violated FINRA Rule 2010.

Silver Leaf nevertheless argues that it should not be liable for these violations because, it claims, the firm did not know about or approve Chapler's payments to Halim. Moreover, the firm claims, Halim deceived Meehan into believing Halim was a registered representative of Silver Leaf. But neither NASD Rule 2420 nor FINRA Rule 2010 contains a scienter requirement.[19] And, regardless, Silver Leaf does not explain why it did not confirm Halim's registration status before he was paid or why, if it believed he was registered with FINRA, it paid his commission through Chapler rather than directly to Halim. Further, the record shows that Meehan—the firm's registered principal, co-owner, president, CFO, and FINOP—not only knew about Chapler and Halim's fee-sharing agreement, but also facilitated the payments. Among other things, Meehan emailed Chapler about how the firm's fee would be shared among Silver Leaf, Chapler, and Halim; and Meehan, with Khan's knowledge, caused Silver Leaf to deposit an amount totaling Chapler's and Halim's combined fee into Chapler's bank account. Silver Leaf further argues that Meehan's conduct cannot be attributed to the firm because it had specific supervisory procedures that required Khan to approve payments by Chapler to third parties. But the mere existence of these procedures does not relieve Silver Leaf of responsibility and, again, Khan knew about these payments and did nothing to stop them.[20]

Regarding Silver Leaf's payments to the Unregistered LLCs, Silver Leaf argues that FINRA never established that any of the payments were ultimately received by anyone other than the registered representatives in their individual capacity. But regardless of where the funds

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recipient is acting as a broker"); *Merrimac Corp. Sec.*, Exchange Act Release No. 86404, 2019 WL 3216542, at *19 (July 17, 2019) ("[I]t is well-established that a firm may be held accountable for the misconduct of its associated persons because it is through such persons that a firm acts."); *cf. A.J. White & Co. v. SEC*, 556 F.2d 619, 624 (10th Cir. 1977) (noting that a firm "can act only through its agents, and is accountable for the actions of its responsible officers").

[19] *See Joseph R. Butler*, Exchange Act Release No. 77984, 2016 WL 3087507, at *6 n.17 (June 2, 2016) (explaining that scienter is not required to establish a Rule 2010 violation); *cf. Philip L. Spartis*, Exchange Act Release No. 64489, 2011 WL 1825026, at *11 (May 13, 2011) (agreeing with NYSE that a rule did not require scienter, where "[n]owhere in the language of the Rule is there an indication that scienter is required").

[20] *Cf. Se. Invs., N.C., Inc.*, Exchange Act Release No. 99118, 2023 WL 8527162, at *7 (Dec. 7, 2023) ("Supervisory procedures must establish mechanisms for ensuring compliance and detecting violations. The presence of procedures alone is not enough because, without sufficient implementation, guidelines and strictures do not assure compliance." (citations omitted)).

may have been later transferred, NASD Rule 2420 explicitly forbade firms from paying transaction-based compensation to non-member brokers or dealers. And Silver Leaf does not dispute that it did so.

Silver Leaf further argues that its payments to the Unregistered LLCs were "at most, a reasonable mistake" and that it believed that it could pay the non-member entities so long as its payroll records showed payments to the firm's individual brokers. But securities industry participants are responsible for complying with FINRA's rules and cannot be excused for lack of knowledge, understanding, or appreciation of their requirements.[21] Moreover, as noted above, Commission staff had expressly warned Silver Leaf about making these payments to the Unregistered LLCs.[22]

3. Rules 2010 and 2420 are, and were applied in a manner, consistent with the purposes of the Exchange Act.

By encouraging registration, which provides important oversight protections to the investing public's benefit,[23] Rule 2420 is consistent with the Exchange Act's purposes because the rule reflects Section 15A(b)(6)'s requirement that FINRA enact rules to prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade.[24] FINRA Rule 2010 is also consistent with the Exchange Act's mandate that FINRA adopt rules to promote just and equitable principles of trade.[25] FINRA applied these rules consistently with the Exchange Act's purposes because Silver Leaf's payment of transaction-based compensation to

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21 *See, e.g., Scott Mathis*, Exchange Act Release No. 61120, 2009 WL 4611423, at *7 (Dec. 7, 2009) (explaining that ignorance of FINRA's rules "is no excuse for their violation" (citation omitted)).

22 *See supra* note 17 and accompanying text.

23 *See, e.g., Roth v. SEC*, 22 F.3d 1108, 1109 (D.C. Cir. 1994) (explaining that the broker-dealer registration requirement "serves as the keystone of the entire system of broker-dealer regulation" (internal quotation marks and citation omitted)); *Eastside Church of Christ v. Nat'l Plan, Inc.*, 391 F.2d 357, 362 (5th Cir. 1968) (stating that the "requirement that brokers and dealers register is of the utmost importance" because through that requirement, "some discipline may be exercised over those who may engage in the securities business").

24 15 U.S.C. § 78*o*-3(b)(6).

25 *Id.*; *see also Fuad Ahmed*, Exchange Act Release No. 81759, 2017 WL 4335036, at *17 (Sept. 28, 2017) (finding that Rule 2010 is consistent with the Exchange Act's purposes).

Halim's business and the Unregistered LLCs created a risk of fraudulent and manipulative securities activities.[26]

C. Silver Leaf violated FINRA's supervisory rules.

FINRA Rule 3110, and its predecessor, NASD Rule 3010, require FINRA member firms to establish and maintain a supervisory system that is reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules. These rules require firms both to have adequate procedures in place and to adequately implement them.[27] The duty to reasonably supervise includes investigating "red flags" of possible misconduct and to act upon that investigation.[28] As explained below, Silver Leaf violated these rules by both failing to reasonably supervise its payment of transaction-based compensation to non-members and failing to reasonably supervise its Corporate Advisory business.

1. Silver Leaf failed to reasonably supervise its payment of transaction-based compensation.

We agree with FINRA that Silver Leaf violated FINRA Rule 3110 and NASD Rule 3010 by failing to establish and maintain a supervisory system reasonably designed to prevent paying transaction-based compensation to non-members. Silver Leaf's WSPs prohibited its representatives from "[c]ompensating any person, firm, or entity," other than a Silver Leaf registered representative, without "express written advance approval of an authorized Principal." But Silver Leaf did not tailor this general pre-approval requirement to its business. The WSPs, for example, addressed the sharing of commissions by registered persons with non-registered persons in the context of retail securities transactions—a business in which Silver Leaf did not engage—but the WSPs did not address compliance with this requirement as it related to one of the firm's primary business lines—the payment of transaction-based compensation to unregistered "finders" or entities affiliated with the firm's registered persons. The firm's WSPs also failed to explain how the firm would ensure compliance with, or detect violations of, the firm's WSPs.

Moreover, Silver Leaf (through Khan, who was responsible for maintaining the firm's WSPs) failed to implement a system reasonably designed to prevent transaction-based

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[26] *See, e.g., Order Approving Proposed Rule Change*, Exchange Act Release No. 73954, 2014 WL 7407470, at *2 (Dec. 30, 2014) (explaining that the receipt of transaction-based compensation "can create potential incentives for abusive sales practices").

[27] *See Malm*, 1994 WL 665963, at *4 n.17.

[28] *See, e.g., Michael T. Studer*, Exchange Act Release No. 50543A, 2004 WL 2735433, at *6 (Nov. 30, 2004) (explaining that reasonable supervision "includes the responsibility to investigate 'red flags' that suggest that misconduct may be occurring and to act upon the results of such investigation").

compensation to non-members. Khan, for example, knew that the firm was paying Halim approximately $200,000 in commissions and took no steps to stop it. Silver Leaf disputes that Khan knew about these payments, claiming that Chapler and Halim concealed their "intent" to exploit Silver Leaf. But Chapler testified that he had conversations with Khan about paying Halim, and Khan exchanged multiple emails with Chapler discussing the plan to split transaction-based fees with Halim. Silver Leaf claims that these emails were about sharing only escrow fees, but Khan testified at the hearing that the emails were about sharing fees with Halim "on a going forward basis" after Halim registered with the firm, without claiming that those fees related to escrow fees only. Thus, we agree with the NAC that Khan knew about the transaction-based payments to Halim. And Khan plainly knew about the transaction-based fees paid to the Unregistered LLCs, as he approved them.

2. Silver Leaf failed to reasonably supervise its Corporate Advisory business.

We also agree with FINRA that Silver Leaf violated FINRA Rule 3110 and NASD Rule 3010 by failing to reasonably supervise the firm's Corporate Advisory business. Khan testified that he knew that the firm's Corporate Advisory business—and Chapler's role in that business in particular—was high risk, as Chapler specialized in "less liquid" and "very sizeable transactions," with a lack of "protective collateral." Despite this, Khan did not revise the firm's WSPs after establishing its Corporate Advisory business or hiring Chapler. In fact, Silver Leaf's WSPs did not mention the firm's Corporate Advisory business at all.

This lack of WSPs for the Corporate Advisory business was consistent with the firm's generally lax approach to supervision. Khan testified that he generally avoided close management of Silver Leaf's registered representatives because he considered them to be "sophisticated people." Instead, he viewed his "due diligence" in overseeing Corporate Advisory as "selecting the right people." Khan testified that he trusted Chapler, describing him as "not a compliance risk" because of Chapler's "extensive experience." And Chapler similarly testified that he could independently pursue Corporate Advisory deals at Silver Leaf without "day to day oversight."

Although Silver Leaf's WSPs also required Khan to review firm email correspondence at least monthly and "create a report of [his] review," Khan performed his email oversight haphazardly, and he never created reports of his reviews. Instead, he would review emails based on "subject lines" and "the status of different transactions." Khan testified that he also *never* reviewed Meehan's emails and that, despite the known risks of Chapler's business, Khan considered reviewing Chapler's emails to be "low on the priority scale."

Silver Leaf also failed to correct these deficiencies despite facilitating a series of transactions that raised red flags. In one transaction, a Silver Leaf client (BHP International Markets Limited) failed to immediately pay back a lender, which then complained to Silver Leaf that BHP had breached the parties' agreement by selling the lent shares at below-market prices. Despite this allegation—as well as Khan's acknowledgment that he was "uncomfortable with these kinds of transactions because of the liquidity issues [and] the parties involved"—Silver

Leaf took no additional supervisory steps before becoming involved in a second BHP-related transaction. BHP again failed to immediately comply with its payment obligations, however, and its "nonstop selling" of the lent shares was subsequently investigated by Turkish securities regulators. Although Silver Leaf asked BHP to indemnify Silver Leaf for any liability it might incur relating to the transaction, the firm took no steps to increase its supervision of its Corporate Advisory business before becoming involved in a third BHP-related transaction, which again began to fall apart.

Silver Leaf argues that it was not obligated to have reasonable supervision "in each and every instance" or for "every broker," but rather needed to have reasonable supervision of Silver Leaf's business only "in its totality." But Silver Leaf's supervisory failures involved more than missing a few individual transactions. The firm had effectively no supervisory system for its Corporate Advisory business, despite knowing it was high risk; Silver Leaf failed to correct that deficiency despite encountering specific red flags; and whatever supervisory system Silver Leaf did have for its overall business, it was not reasonably designed—nor reasonably implemented—to achieve compliance with applicable securities regulations.

Silver Leaf also contends that its supervision of the Corporate Advisory business was sufficient because the firm only introduced prospective counterparties and did not "supervis[e]" or otherwise participate as a "principal" or "agent" in any subsequent transactions unless it "agreed to provide additional services." To the contrary, Silver Leaf did more than make introductions, it helped parties come to terms and stayed involved with the transactions until completion. As Chapler testified, Silver Leaf stayed involved because the firm's "job [wa]s to try to make [the transaction] work," even when "problems" arose. Silver Leaf further argues that its supervision of its Corporate Advisory business was sufficient because, it claims, no complaints were filed against the firm relating to the troubled stock loans. But FINRA is not required to prove underlying wrongdoing to establish a member's violation of its supervisory rules.[29]

3. FINRA Rule 3110 and NASD Rule 3010 are, and were applied in a manner, consistent with the purposes of the Exchange Act.

FINRA Rule 3110 and NASD Rule 3010 are, and were applied in a manner, consistent with the purposes of the Exchange Act. The Commission "has long emphasized that the responsibility of broker-dealers to supervise their employees is a critical component of the federal regulatory scheme."[30] Because Silver Leaf failed to reasonably supervise its payment of

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[29] *See Robert J. Prager*, Exchange Act Release No. 51974, 2005 WL 1584983, at *12 (July 6, 2005) ("A determination that a respondent has violated [FINRA's] supervisory rule is not dependent on a finding of a violation by those subject to the respondent's supervision.").

[30] *E.g., Newport Coast Sec., Inc.*, Exchange Act Release No. 88548, 2020 WL 1659292, at *9 (Apr. 3, 2020).

transaction-related compensation and its Corporate Advisory business, we find that FINRA applied FINRA Rule 3110 and NASD Rule 3010 in a manner consistent with the purposes of the Exchange Act.[31]

In addition, we find that the proceeding against Silver Leaf was fair overall and therefore was consistent with the Exchange Act's purpose that FINRA provide a fair procedure for disciplining its members. We review the "overall fairness" of a FINRA disciplinary action based on the "entirety of the record."[32] Although Silver Leaf cites a variety of bases for claiming that the FINRA disciplinary hearing was biased, none has merit.

a) Silver Leaf has not established that the hearing panel exhibited bias or prejudiced the firm.

Silver Leaf argues that the proceeding below was unfair because the hearing officer exhibited bias in FINRA's favor. As evidence, Silver Leaf points to the hearing officer's admission of nine summary exhibits prepared and offered into evidence by FINRA Enforcement and, conversely, to the hearing officer's decision to not admit nine of Silver Leaf's proposed exhibits.[33] Silver Leaf, however, does not identify any error in the hearing officer's decisions or explain how the admission or denial of any of these exhibits shows bias or unfair prejudice.[34] Indeed, "adverse rulings, without more, do not prove bias,"[35] and Silver Leaf had the opportunity

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31 *Cf. William H. Murphy & Co.*, Exchange Act Release No. 90759, 2020 WL 7496228, at *16 (Dec. 21, 2020) (finding that NASD Rule 3010 is, and was applied in a manner, consistent with the purposes of the Exchange Act).

32 *Mark H. Love*, Exchange Act Release No. 49248, 2004 WL 283437, at *4 (Feb. 13, 2004).

33 Notably, of the nine of its exhibits that Silver Leaf claims the hearing office did not admit, one was actually admitted, Silver Leaf withdrew another, and Silver Leaf never offered into evidence four others.

34 *See, e.g., ABN AMRO Clearing Chi. LLC*, Exchange Act Release No. 83849, 2018 WL 3869452, at *12 (Aug. 15, 2018) ("The onus rests on the parties to identify with specificity the evidence and authority that supports their contentions." (citing *Greenlaw v. United States*, 554 U.S. 237, 244 (2008))).

35 *Owens v. Evans*, 878 F.3d 559, 566 (7th Cir. 2017) (*citing Trask v. Rodriguez*, 854 F.3d 941, 944 (7th Cir. 2017)); *see also, e.g., Marcus v. Dir., Office of Workers' Comp. Programs*, 548 F.2d 1044, 1051 (D.C. Cir. 1976) ("The mere fact that a decision was reached contrary to a particular party's interest cannot justify a claim of bias . . . ."); *Scott Epstein*, Exchange Act Release No. 59328, 2009 WL 223611, at *18 (Jan. 30, 2009) ("Adverse rulings, by themselves, generally do not establish improper bias.").

to participate in the proceeding by, among other things, cross-examining the FINRA investigator who testified about FINRA's proposed exhibits.[36]

Silver Leaf asserts that the hearing officer also exhibited bias by allegedly allowing Enforcement's attorneys "to testify from the table in support of [the investigator's] poor grasp of the facts and allegations lodged by Enforcement" and to "repeatedly and prejudicially ask [the investigator] leading questions." But Silver Leaf does not identify any such instances in the record, and we can find no evidence that the hearing panel allowed Enforcement to improperly influence the hearing panel or otherwise prejudice the proceedings.

We also find no merit to Silver Leaf's claims that the hearing officer showed bias by adjourning the hearing at what the firm describes was "a critical stage" to "discuss an issue" with the other hearing panelists. If anything, the instance Silver Leaf cites indicates that the hearing officer took seriously Silver Leaf's arguments, as the discussion began when Silver Leaf's attorney asked a question about whether FINRA had authority over extraterritorial transactions. When FINRA Enforcement objected to the question, the hearing officer said, "Let me rule on the objection in a moment. I want to meet with the panelists to discuss an issue." Seven minutes later, the hearing officer overruled Enforcement's objection and initiated a discussion of extraterritoriality and summary disposition with both parties.[37]

Finally, Silver Leaf claims that the hearing panel lacked experience with the firm's "specialty" and "bespoke" type of business, but it cites no authority for the proposition that a panel must possess specific qualifications. And Silver Leaf does not identify, nor can we find any, evidence that the panelists did not understand Silver Leaf's business or the issues involved in this proceeding. Further, Silver Leaf does not explain how it was prejudiced by the panel's alleged lack of understanding.

b) Silver Leaf's complaints about FINRA's investigation are without merit.

Silver Leaf contends that FINRA's investigation was unfair because its investigator "was 'on the job' for less than 30 days, never ran an investigation before, did not have supervisory licenses, and did not notify Silver Leaf" after expanding the scope of the investigation. But

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[36] *Cf. Merrimac Corp. Sec.*, 2019 WL 3216542, at *26 (finding that hearing officer did not abuse her discretion in admitting summary exhibits that were "relevant to and probative of FINRA's allegations" and "Merrimac had ample opportunity for cross-examination").

[37] Silver Leaf also claims that the chief hearing officer exhibited prejudice and bias by reassigning the proceeding from one hearing officer to another for "scheduling considerations." Silver Leaf forfeited this objection to the reassignment, however, by not raising it before FINRA. *Cf. id.* at *25 (finding waiver where applicants did not move for disqualification based on alleged bias within the 15 days that FINRA Rule 9233(b) requires).

Silver Leaf identifies no basis for how the investigation was unfair or prejudiced the firm, and we can find none.[38] To the contrary, the Exchange Act requires FINRA to "bring specific charges, notify such member or person of and give him an opportunity to defend against, such charges, and keep a record."[39] And that was done here: FINRA Enforcement filed a complaint notifying Silver Leaf of the charges against it; a hearing panel held a six-day hearing, in which Silver Leaf participated; the panel issued a decision; Silver Leaf appealed that decision to the NAC; the NAC issued a decision sustaining the hearing panel's findings of violations and modifying the sanctions; and Silver Leaf has now appealed that decision to the Commission.[40]

* * *

Based on the entirety of the record before us, we find that the proceeding against Silver Leaf was fair overall and that the relevant FINRA and NASD rules were applied consistent with the purposes of the Exchange Act.

IV. Procedural Motions

A. FINRA Enforcement's motion to strike is granted.

Silver Leaf attached to its reply brief an affidavit of an accounting firm that, according to Silver Leaf, was hired after the relevant time "to handle all aspects of its financial operations and accounting processes." We grant FINRA's motion to strike this document because Silver Leaf neither moved to adduce it nor provided any basis for its failure to adduce the evidence previously as required by the Commission's Rule of Practice 452.[41]

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38 Silver Leaf claims that the NAC failed to consider the sufficiency of FINRA's investigation and its investigator's "competence and capability," but the record shows that the NAC considered these issues in its decision.

39 15 U.S.C. § 78*o*-3(h)(1).

40 We do not consider any argument that the hearing panel ignored Silver Leaf's investigation-related arguments because "it is the decision of the NAC . . . that is the final action of [FINRA] which is subject to Commission review." *Philippe N. Keyes*, Exchange Act Release No. 54723, 2006 WL 3313843, at *6 n.17 (Nov. 8, 2006).

41 *See* 17 C.F.R. § 201.452 (requiring a party seeking to adduce additional evidence to "show with particularity that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence previously").

B. Silver Leaf's motions for dismissal or postponement, additional evidence, and a damages process are denied.

1. Motion for dismissal or postponement.

On August 31, 2023, Silver Leaf filed a motion requesting that the Commission "[r]ule in favor of Silver Leaf in these proceedings and terminate them forthwith" or, in the alternative, postpone these proceedings pending the D.C. Circuit's decision in *Alpine Securities Corp. v. FINRA*.[42] Silver Leaf argues that "FINRA's adjudicatory process and structure is unconstitutional" and raises two related claims: (1) that FINRA has "usurp[ed]" governmental authority (which we construe as an argument that Congress unconstitutionally delegated power to a private entity); and (2) that FINRA's hearing officers and hearing panels are selected in a manner that violates the Appointments Clause.[43]

As a threshold matter, Silver Leaf waived these objections by failing to raise them before FINRA.[44] But even on the merits, its constitutional claims do not warrant either dismissal or postponement. Briefs filed by the Commission and by the Department of Justice in other proceedings have discussed such claims in detail.[45] We therefore explain only briefly why we conclude that Silver Leaf's claims lack merit.

As to its private nondelegation doctrine claim, there is no dispute that FINRA is not "part of the government" under the applicable test from *Lebron v. National Railroad Passenger Corp.*

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[42] 121 F.4th 1314 (D.C. Cir. 2024). We have also considered Silver Leaf's supplements to that motion, filed on December 7, 2023, July 11, 2024, and November 25, 2024, which make materially the same arguments.

[43] In the D.C. Circuit's recent decision in *Alpine Securities*, the applicant made arguments similar to those made by Silver Leaf here. Except for narrow issues not relevant here, however, the D.C. Circuit did not reach the merits of the applicant's claims. 121 F.4th 1314; *see infra* notes 51 (discussing private nondelegation claim) and 54 (discussing Appointments Clause claim).

[44] Challenges premised on constitutional claims are not exempt from "ordinary principles of waiver and forfeiture." *See, e.g.*, *Island Creek Coal Co. v. Wilkerson*, 910 F.3d 254, 256 (6th Cir. 2018) (internal quotation marks omitted); *see also MFS Sec. Corp. v. SEC*, 380 F.3d 611, 622 (2d Cir. 2004) (holding that "general administrative exhaustion principles apply to SROs").

[45] *See* Br. for Respondent SEC, *Black v. SEC*, Case No. 23-2297, Doc. No. 45 (4th Cir. July 8, 2024); *see also* Br. for Intervenor United States of Am., *Alpine Sec. Corp. v. FINRA*, Case No. 23-5129, Doc. No. 2024252, 2023 WL 7110279 (D.C. Cir. Oct. 27, 2023); Mem. of Law of Intervenor United States in Defense of the Challenged Provisions of the Sec. Laws, *Alpine Sec. Corp. v. Nat'l Sec. Clearing Corp.*, Case No. 2:23-cv-00782-JNP-JCB, ECF No. 30 (D. Utah filed Jan. 29, 2024).

because it was not created by the government and its leaders are not chosen by the government.[46] FINRA is instead a private, non-profit corporation incorporated under Delaware law.[47] The Supreme Court has recognized that Congress may without running afoul of the nondelegation doctrine enlist the aid of private organizations in administering federal law as long as those private actors "function subordinately" to a government agency that exercises "authority and surveillance" over its activities, as the Commission does here.[48] Importantly, through the Exchange Act, Congress gave the Commission "pervasive supervisory authority" over the rulemaking and enforcement activities of FINRA and other self-regulatory organizations in order to protect "the public interest."[49] For example, FINRA's proposed rules for its members generally only take effect if the Commission approves the rules after public notice and comment.[50] And the Commission exercises supervisory authority over FINRA's disciplinary decisions, including plenary review over its final disciplinary actions—the very process Silver Leaf has pursued here.[51] In short, the relationship between FINRA and the Commission satisfies private-nondelegation principles, as the courts of appeals have repeatedly recognized.[52]

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46 513 U.S. 374, 399 (1995).

47 *See, e.g.*, *Jones v. SEC*, 115 F.3d 1173, 1183 (4th Cir. 1997) ("While the NASD is a closely regulated corporation, it is not a governmental agency, but rather a private corporation organized under the laws of Delaware.").

48 *Sunshine Anthracite Coal Co. v. Adkins*, 310 U.S. 381, 399 (1940).

49 *United States v. NASD*, 422 U.S. 694, 732–33 (1975); *see also Oklahoma v. United States*, 62 F.4th 221, 229 (6th Cir. 2023) (observing that the Commission "oversees both [FINRA's] rulemaking and [its] enforcement").

50 *See* 15 U.S.C. § 78s(b)(1), (2)(C), (c).

51 *See id.* § 78s(e); *see also NASD v. SEC*, 431 F.3d 803, 806 (D.C. Cir. 2005) (recognizing that the Exchange Act "provides the Commission with plenary review powers" over self-regulatory organization disciplinary sanctions).

Silver Leaf has also failed to establish that the Appointments Clause applies to FINRA personnel. By its terms, this structural constitutional requirement applies only to "Officers of the United States,"[53] and Article II "says nothing" about the method of hiring "some other type of officer" that is not an officer "of the United States."[54] But FINRA is not part of the government, as explained above. As a private entity (acting subject to the supervision and authority of the Commission), FINRA's processes for hiring or selecting its personnel—including with respect to hearing officers and the composition of hearing panels—are not subject to the Appointments Clause.

We acknowledge, but do not find applicable to this proceeding, the D.C. Circuit's finding in *Alpine Securities* that the applicant had demonstrated a likelihood of success as to its private nondelegation claim under the narrow circumstances where FINRA expelled the applicant in an expedited proceeding and the expulsion was allowed to take effect before the completion of Commission review proceedings. *Alpine Sec.*, 121 F.4th 1314. There, the court reversed the district court's denial of a motion for a preliminary injunction, explaining that plenary Commission review of FINRA's expedited expulsion proceeding was "not available as a practical matter" before the expulsion forced the business to close—thus leaving a "gap" in Commission oversight of FINRA's disciplinary proceedings. *Id.* at 1331. Because the same procedural posture and concerns are not present in our review of FINRA's final disciplinary decision here, we do not find the *Alpine Securities* decision applicable. *See, e.g.*, *id.* at 1326–28 (distinguishing between the Commission's oversight of FINRA through review of final FINRA decisions or sanctions and the circumstances before the court in *Alpine Securities*, which were the Commission's more limited inquiry in the context of whether to stay the effectiveness of an expedited expulsion order pending Commission review).

[52] *See, e.g.*, *Sorrell v. SEC*, 679 F.2d 1323, 1325–26 (9th Cir. 1982) (upholding arrangement against a challenge that Congress unconstitutionally delegated power to self-regulatory organizations to impose disciplinary sanctions); *First Jersey Sec., Inc. v. Bergen*, 605 F.2d 690, 697 (3d Cir. 1979); *Todd & Co., Inc. v. SEC*, 557 F.2d 1008, 1012–13 (3d Cir. 1977); *R. H. Johnson & Co v. SEC*, 198 F.2d 690, 695 (2d Cir. 1952); *see also Oklahoma*, 62 F.4th at 229 (recognizing that "the SEC's ultimate control over the rules and their enforcement makes the SROs permissible aides and advisors); *Ass'n of Am. R.R.s v. U.S. Dep't of Transp.*, 721 F.3d 666, 671 n.5 (D.C. Cir. 2013) (describing SROs' roles as "purely advisory or ministerial"); *cf. Alpine Sec.*, 121 F.4th 1314 (discussed *supra* note 51).

[53] U.S. CONST. art. II, § 2, cl. 2.

[54] *Fin. Oversight & Mgmt. Bd. for P.R. v. Aurelius Inv., LLC*, 590 U.S. 448, 459 (2020). We note that, because the D.C. Circuit in *Alpine Securities* found that the applicant had not made the requisite showing of irreparable harm to obtain injunctive relief with respect to the Appointments Clause claim presented in that case, the court did not evaluate the applicant's likelihood of success on the merits of that claim. *Alpine Sec.*, 121 F.4th at 1337.

2. Motion for additional evidence.

We deny Silver Leaf's request that the Commission "[u]ndertake the process of securing additional evidence to determine the fairness, sufficiency and constitutionality of FINRA's business and enforcement practices in these proceedings in light of the [*Alpine Securities*] Order and the other matters raised in the filings in these proceedings." The Commission lacks authority in an administrative proceeding such as this one to order a review of FINRA's business and enforcement practices.[55] We also deny Silver Leaf's motion to adduce as additional evidence an *amicus* brief filed in *Alpine Securities,* because arguments in *amicus* briefs are not evidence.[56]

3. Motion to amend disclosures and reserve a damages process.

We deny Silver Leaf's request that the Commission direct FINRA to amend the information that it has disclosed about this proceeding in FINRA's Central Registration Depository ("CRD").[57] Silver Leaf claims that FINRA's disclosures have harmed the firm and could constitute an improper "taking." But Exchange Act Section 19(d) does not provide us with authority to review challenges to a firm's information in the CRD.[58] Nor is a FINRA action reviewable "merely because it adversely affects the applicant."[59]

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[55] *See, e.g., J.W. Korth & Co.*, Exchange Act Release No. 94581, 2022 WL 990183, at *14 (Apr. 1, 2022) (explaining that "broad review of FINRA's enforcement program . . . is beyond the scope of our authority in a proceeding to review FINRA disciplinary action pursuant to Exchange Act Section 19(e)" (internal quotation marks and citation omitted)).

[56] *See, e.g., Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417, 434 n.16 (1984) (explaining that statements made by *amici* "are not evidence"); *Comstock v. Humphries*, 786 F.3d 701, 709 (9th Cir. 2015) ("[A]rguments in briefs are not evidence").

[57] The CRD is a database that contains information about broker-dealers and their representatives, including information concerning employment terminations and regulatory actions.

[58] *See, e.g., Sandeep Varma*, Exchange Act Release No. 98102, 2023 WL 5152648, at *2 (Aug. 10, 2023) (explaining that Exchange Act Section 19(d) does not authorize the Commission to review challenges to information maintained by FINRA in the CRD).

[59] *Eric David Wanger*, Exchange Act Release No. 79008, 2016 WL 5571629, at *5 (Sept. 30, 2016) (quoting *Citadel Sec. LLC*, Exchange Act Release No. 78340, 2016 WL 3853760, at *5 (July 15, 2016), *aff'd sub nom., Chi. Bd. Options Exch. v. SEC*, 889 F.3d 837 (7th Cir. 2018)).

We also deny Silver Leaf's requests that we "reserve a process for damages and restitution related" to potential claims against FINRA, because we do not have authority to award damages in this proceeding.[60]

V. Sanctions

Exchange Act Section 19(e)(2) directs us to sustain FINRA's sanctions unless we find, with due regard for the public interest and the protection of investors, that the sanctions are excessive or oppressive.[61] Under this standard, we consider any aggravating or mitigating factors and whether the sanctions are remedial and not punitive.[62] Although they are not binding on us, FINRA's Sanction Guidelines serve as a benchmark in our review.[63]

A. The sanctions that FINRA imposed are not excessive, oppressive, or punitive.

1. The sanctions imposed for the payment of transaction-based compensation.

FINRA imposed a $50,000 fine for Silver Leaf's violations of NASD Rule 2420 and FINRA Rule 2010 for paying transaction-based compensation. We sustain this fine.

Because the Guidelines in effect at the time of FINRA's decision did not address violations of NASD Rule 2420,[64] FINRA looked to the guideline for a registration violation,[65]

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60 *Cf. Citadel*, 2016 WL 3853760, at *3 & n.25 (explaining that the Commission does not have authority to award damages under Exchange Act Section 19 and collecting cases).

61 15 U.S.C. § 78s(e)(2). Section 19(e)(2) also requires that the action not impose an unnecessary or inappropriate burden on competition. *Id.* Silver Leaf does not allege, nor does the record show, that the sanctions imposed create an unnecessary or inappropriate burden on competition.

62 *See Saad v. SEC*, 718 F.3d 904, 906 (D.C. Cir. 2013); *PAZ Sec., Inc. v. SEC*, 494 F.3d 1059, 1065 (D.C. Cir. 2007).

63 *John Joseph Plunkett*, Exchange Act Release No. 69766, 2013 WL 2898033, at *11 & n.68 (June 14, 2013).

64 *See generally* FINRA Sanction Guidelines (Mar. 2019), https://www.finra.org/sites/default/files/2020-10/2019_Sanctions_Guidelines.pdf ("Guidelines") (last visited Mar. 5, 2025). Silver Leaf does not challenge FINRA's application of this version of the Guidelines.

65 *See Meyers Assocs., L.P.*, Exchange Act Release No. 86193, 2019 WL 2593825, at *17 (June 24, 2019) (endorsing FINRA's reliance on a sanction guideline for an analogous rule); Guidelines at 1 (stating that "[f]or violations that are not addressed specifically, Adjudicators are encouraged to look to the guidelines for analogous violations").

which recommended a fine between $2,500 and $77,000.[66] Silver Leaf does not challenge FINRA's application of this guideline, and FINRA's imposition of the $50,000 fine is within its range.

Silver Leaf's misconduct also involved aggravating factors. Silver Leaf unilaterally decided to resume paying the Unregistered LLCs months after telling Commission staff that it had halted the practice and would only resume doing so if it received a no-action letter.[67] And Silver Leaf obtained a monetary benefit from its association with unregistered entities and individuals, as Halim and the Unregistered LLCs generated fees for the firm.[68] Silver Leaf's violations were also serious. As we have explained, "[r]egistration as a broker-dealer provides a framework of rules to regulate the conduct of persons who receive transaction-based compensation, the receipt of which can create potential incentives for abusive sales practices."[69] Silver Leaf's payment of transaction-based compensation to non-members undermined this important framework.

We reject Silver Leaf's argument that it should receive mitigation credit because, it claims, only individual brokers ultimately received the money. Regardless of where the money was eventually directed, the firm still paid transaction-based compensation to the Unregistered LLCs, none of which was a registered broker. And as FINRA explained, Silver Leaf paid those entities after the Commission staff warned the firm that those payments were not allowed.

Silver Leaf also claims that its payments to Halim "were buried in attachments to emails and never discussed with or authorized by Khan in violation of the firm's procedures." But we do not find this to be mitigating given that, as discussed above, Khan (who was responsible for supervising these transactions) knew about these payments to Halim but took no action to prevent them. And Khan knew about the payments to the Unregistered LLCs, as he approved them.

We accordingly find that the $50,000 fine is not excessive, oppressive, or punitive.

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66 Guidelines at 45.

67 *See* Guidelines at 8 (Principal Consideration No. 14) (explaining that considerations in determining sanctions include whether the respondent engaged in the misconduct at issue notwithstanding prior warnings from a regulator that the conduct violated FINRA rules).

68 *See* Guidelines at 8 (Principal Considerations No. 16) (explaining that considerations in determining sanctions include whether the misconduct "resulted in the potential for the respondent's monetary or other gain").

69 *Order Approving Proposed Rule Change*, 2014 WL 7407470, at *2; *see also Persons Deemed Not To Be Brokers*, Exchange Act Release No. 22172, 1985 WL 634795, at *2 (June 27, 1985) (stating that the obligations imposed upon registered brokers "provide important safeguards to investors").

2. The sanctions imposed for the supervisory violations.

For Silver Leaf's supervisory violations of NASD Rule 3010 and FINRA Rule 3110, FINRA fined Silver Leaf $50,000, required Silver Leaf to retain an expert to evaluate and approve its WSPs, and suspended Silver Leaf from engaging in its Corporate Advisory business until Silver Leaf certifies implementation of the expert's recommendations. We sustain FINRA's imposition of sanctions.

FINRA's Guidelines applicable to a firm's failure to supervise recommended a fine of $5,000 to $77,000,[70] and the Guideline applicable to a firm's systemic supervisory failures recommended a fine of $10,000 to $310,000.[71] The Guideline for deficient WSPs recommended a fine between $1,000 and $39,000.[72] The $50,000 fine is thus within the relevant Guidelines' range, and Silver Leaf's supervisory failures involved numerous aggravating factors. As explained above, the firm had no WSPs that addressed the firm's Corporate Advisory business, despite knowing that it was high risk, particularly as it related to Chapler. Khan also performed only, at best, haphazard oversight of Chapler and the Corporate Advisory business. And Silver Leaf did not respond to or otherwise modify its WSPs despite red flags from the BHP-related transactions.

Regarding the firm's supervision of its payment of transaction-based compensation to unregistered entities, the firm again failed to respond to red flags, including Commission staff's warning about paying non-member entities and the firm's knowledge that Silver Leaf was paying transaction-based compensation to Halim.[73] The dollar value of the transactions Silver Leaf failed to adequately supervise—over $2.6 million to the Unregistered LLCs and more than $200,000 to Halim—were also substantial,[74] and Silver Leaf's supervisory deficiencies allowed the payment to non-members to occur.[75]

Silver Leaf disputes that the sanctions are appropriate because, it contends, its supervisory violations related to only a single broker and client and the payments to non-members stemmed from "a reasonable change to the firm's payroll practice." To the contrary,

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70 Guidelines at 104.

71 *Id*. at 105.

72 *Id.* at 107.

73 *See id.* at 105 (explaining that a supervisory failure is systemic when it "is significant and is widespread or occurs over an extended period of time").

74 *Id.* (Principal Consideration No. 5) ("The number and dollar value of the transactions not adequately supervised as a result of the deficiencies.").

75 *Id.* (Principal Consideration No. 1) ("Whether the deficiencies allowed violative conduct to occur or to escape detection.").

even if the supervisory violations related only to one broker and one client, they were still—for all the reasons explained herein—widespread, systemic, and occurred over several years.[76] Given this, FINRA's imposition of a $50,000 fine and requirement that Silver Leaf improve its supervisory systems and procedures are appropriate and not excessive, oppressive, or punitive.[77]

B. Silver Leaf has failed to establish an inability to pay.

Silver Leaf alleges that it is financially unable to pay the fines that FINRA imposed on it and that, in considering that claim below, FINRA improperly placed the burden on Silver Leaf to establish an inability to pay. But "'[i]t is well settled that a respondent bears the burden of demonstrating an inability to pay."[78] Indeed, the Guideline governing an inability to pay specifies that "[t]he burden is on the respondent to raise the issue of inability to pay and to provide evidence thereof."[79] Because Silver Leaf has introduced no evidence that it cannot pay the fines, we find no basis for claiming an inability to pay.

An appropriate order will issue.[80]

By the Commission (Acting Chairman UYEDA and Commissioners PEIRCE and CRENSHAW).

Vanessa A. Countryman
Secretary

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[76] *See, e.g.*, *Meyers Assocs., L.P.*, Exchange Act Release No. 86497, 2019 WL 3387091, at *16 (July 26, 2019) (describing a firm's supervisory failures as systemic where they "allowed violative conduct to occur or to escape detection" and "the Firm failed to timely correct or address deficiencies once identified" (internal quotations marks and citation omitted)).

[77] *See* Guidelines at 106 (directing adjudicators, with respect to systemic supervisory failures, to "[c]onsider imposing undertakings, ordering the firm to revise its supervisory systems and procedures, or ordering the firm to engage an independent consultant to recommend changes to the firm's supervisory systems and procedures"); *cf. Wilson-Davis & Co.*, Exchange Act Release No. 99248, 2023 WL 9022658, at *19 (Dec. 28, 2023) (sustaining order that firm retain independent consultant to recommend changes to its WSPs for systematic supervisory failures).

[78] *Keith D. Geary*, Exchange Act Release No. 80322, 2017 WL 1150793, at *12 (Mar. 28, 2017) (citation omitted).

[79] Guidelines at 6.

[80] We have considered all of the parties' contentions. We have rejected or sustained them to the extent that they are inconsistent or in accord with the views expressed in this opinion.

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 102538 / March 7, 2025

Admin. Proc. File No. 3-19896

In the Matter of the Application of

SILVER LEAF PARTNERS, LLC

For Review of Disciplinary Action Taken by

FINRA

ORDER SUSTAINING DISCIPLINARY ACTION TAKEN BY FINRA

On the basis of the Commission's opinion issued this day, it is

ORDERED that the disciplinary action taken by FINRA against Silver Leaf Partners, LLC, is sustained.

By the Commission.

Vanessa A. Countryman
Secretary