

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 6889 / June 23, 2025

Admin. Proc. File No. 3-20204

In the Matter of
ADVANCED PRACTICE ADVISORS, LLC
and
PAUL C. SPITZER

ORDER DENYING MOTION TO VACATE SUPERVISORY LIMITATION

On January 14, 2021, the Securities and Exchange Commission accepted an offer of settlement from Advanced Practice Advisors, LLC (“APA”) and Paul C. Spitzer (collectively, “Respondents”).¹ Based on that offer, the Commission issued an order finding that Spitzer had failed to reasonably supervise an investment adviser representative who was associated with APA; failed to ensure APA implemented written policies and procedures reasonably designed to prevent violations of the Investment Advisers Act of 1940; and violated Advisers Act Section 206(2) (the “Settled Order”).² The Commission also imposed certain remedial sanctions that Respondents had agreed to in their settlement offer, including a limitation on Spitzer’s activities that prohibited him from acting in a supervisory capacity with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization (the “Supervisory Limitation”).³

Spitzer now moves to vacate that Supervisory Limitation. The Division of Enforcement opposes his motion. For the reasons below, we deny Spitzer’s motion. The Commission and

¹ *Advanced Practice Advisors, LLC*, Advisers Act Release No. 5670, 2021 WL 136246 (Jan. 14, 2021).

² *See* 15 U.S.C. § 80b-6(2) (prohibiting investment advisers from “engag[ing] in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client”).

³ *Advanced Practice Advisors*, 2021 WL 136246, at *5–6 (imposing also a cease-and-desist order, compliance with certain undertakings, and a \$20,000 civil money penalty on Spitzer).

courts have long emphasized the “strong interest” in the finality of settlements.⁴ A movant must therefore show compelling circumstances to justify vacating or modifying a settled order.⁵ Spitzer has not done so.

I. Subsequent settlements with other parties are not compelling circumstances justifying modification of the Settled Order.

Spitzer argues that we should vacate the Supervisory Limitation because, he claims, the Commission imposed more severe remedies on him than a U.S. district court imposed—by consent—on two individuals (David and Michael Sztrom) who committed the conduct underlying Spitzer’s supervisory violations and who, according to Spitzer, both acted more egregiously than he did.⁶ As we recently explained, however, the Commission and courts have long rejected motions to modify or vacate settled orders simply because respondents complained that sanctions imposed on other parties were more lenient.⁷ The possibility that other parties received different or more favorable terms does not establish that the settlement terms to which Spitzer agreed were punitive or contrary to the public interest.⁸ In short, even assuming that the sanctions the Commission imposed on Spitzer are less favorable than the ones the district court imposed on the Sztroms, that is not a reason to vacate the Supervisory Limitation.⁹

We are also unpersuaded by Spitzer’s argument that we should vacate the Supervisory Limitation because of what he claims are inconsistencies in how the Settled Order and the

⁴ *E.g., Richard D. Feldmann*, Exchange Act Release No. 77803, 2016 WL 2643450, at *2 (May 10, 2016) (quoting *Michael H. Johnson*, Exchange Act Release No. 75894, 2015 WL 5305993, at *4 (Sept. 10, 2015)).

⁵ *Certain Off-Channel Commc’ns Settled Orders*, Exchange Act Release No. 102860, 2025 WL 1101495, at *1 (Apr. 14, 2025); *see also Guy S. Amico*, Exchange Act Release No. 100453, 2024 WL 3291362, at *1 (July 2, 2024) (applying the “compelling circumstances” standard when denying motion to vacate a supervisory bar).

⁶ *See SEC v. Sztrom*, No. 3:21-cv-00086 (S.D. Cal. Oct. 6, 2022) (ECF No. 47) (enjoining the Sztroms from future violations of certain provisions of the Advisers Act and imposing a \$25,000 civil penalty on each of them); Rule of Practice 323, 17 C.F.R. § 201.323 (providing that official notice may be taken “of any material fact which might be judicially noticed by a district court of the United States”).

⁷ *See, e.g., Certain Off-Channel Commc’ns Settled Orders*, 2025 WL 1101495, at *2 (observing that the Commission and courts have “long rejected motions to modify or vacate settled orders simply because respondents seek to bring their terms in line with sanctions imposed on other parties” and collecting cases).

⁸ *See id.* at *3.

⁹ *See id.* at *1 (holding that, even if “later settlements involved similarly situated respondents” and “the terms of those orders were better than their own,” that “would not be a basis for modifying Respondents’ Settled Orders”); *see also Cummings v. Greater Cleveland Reg’l Transit Auth.*, 865 F.3d 844, 846 (6th Cir. 2017) (“A settlor’s remorse cannot alone justify abandoning [settled] judgments.”).

district court’s rulings describe the underlying conduct. Spitzer is precluded from making what amounts to a collateral attack on the Settled Order’s findings because he forfeited any claim that the Commission based its decision on an incorrect or incomplete record by consenting to the Settled Order.¹⁰ And alleged inconsistencies between different cases are simply not enough to vacate agreed-upon terms.¹¹

II. Spitzer has not identified verifiable, unanticipated consequences that justify vacating the Supervisory Limitation.

We further reject Spitzer’s contention that we should vacate the Supervisory Limitation because he did not anticipate that it would “effectively result in a collateral bar” on dealing with clearing brokers. Specifically, Spitzer asserts that he is worried the clearing broker he uses, which he identifies as “TD Ameritrade,” will remove him from its platform because that broker plans to merge with APA’s former broker, Charles Schwab & Co., which previously removed APA from its platform when it learned about the Sztroms’ underlying conduct. This is not the type of verifiable, unanticipated consequence that might warrant modifying his Settled Order, particularly given Spitzer’s awareness of the risk that the Settled Order might impact his ability to find a clearing broker.¹²

To begin, the Settled Order did not impose a “bar” on Spitzer from working with a broker; rather, Spitzer agreed to a supervisory limitation that limits only his ability “to act in a supervisory capacity” in the securities industry.¹³ It is not clear, therefore, that the Supervisory Limitation itself will necessarily cause third-party clearing brokers to decline to conduct business with Spitzer. They could do so for any number of reasons, including that the Commission found Spitzer to have violated various federal securities laws. Indeed, although Spitzer cites the fact that Schwab previously removed APA from its platform as the reason for why it or another clearing broker may remove Spitzer from its platform, he acknowledges that Schwab did so after discovering the Sztroms’ underlying conduct—not because Spitzer had agreed to the Supervisory Limitation.

Spitzer additionally claims that Schwab will remove him from its platform because the broker’s policy “is to treat any ‘BAR’ as a ‘COLLATERAL BAR.’” But Spitzer provides no

¹⁰ *Johnson*, 2015 WL 5305993, at *4–5 (denying motion to modify settlement, in part, because respondent “may not now complain that the record is inaccurate or incomplete”) (citation omitted); *see also Calhoun Asset Mgmt., LLC*, Exchange Act Release No. 99322, 2024 WL 147796, at *3 (Jan. 11, 2024) (“[W]e have consistently rejected such collateral attacks on the merits as a basis for undoing the terms of a settlement.”).

¹¹ *Cf. SEC v. Conradt*, 696 F. App’x 46, 47 (2d Cir. 2017) (finding that vacatur of a defendant’s guilty plea in a parallel criminal proceeding did not require vacatur of that very same defendant’s civil consent judgment because under “the express terms of his agreement, [the defendant’s] consent judgment was solely ‘based on’ his consent”).

¹² *See Amico*, 2024 WL 3291362, at *2 (noting that, in considering whether to vacate a bar, the Commission considers whether the bar has had “verifiable, unanticipated consequences”).

¹³ *Advanced Practice Advisors*, 2021 WL 136246, at *6.

explanation about the details of this policy, evidence of its existence, or the extent to which any other clearing brokers have such a policy. Indeed, Spitzer acknowledges that another broker, TD Ameritrade, allowed him to access its platform even after the imposition of the Supervisory Limitation. And there is no evidence that lifting the Supervisory Limitation would necessarily ensure that Schwab would allow Spitzer to access its platform.¹⁴

Even assuming, however, that the Supervisory Limitation itself may cause clearing brokers to sever their business relationships with Spitzer, such difficulties in establishing or maintaining relationships with clearing brokers are also an entirely foreseeable outcome of agreeing to such limitations.¹⁵ In fact, the record indicates that Spitzer knew about this potential risk at the time of his settlement, as he represents in his motion that he met with TD Ameritrade before submitting his offer of settlement “to determine how the language of the [Settled] Order might affect [his] relationship with” the broker. After this meeting, Spitzer still chose to agree to the Settled Order.

Spitzer claims that clearing brokers denying him access to their platforms was nevertheless unforeseeable because Division staff provided him with what he describes as “qualified” assurances that the Supervisory Limitation “should not” prevent clearing brokers from allowing him to access their platforms. But, in his offer of settlement, Spitzer disavowed that staff made any such assurances when he represented that “no promises, offers, threats, or inducements of any kind or nature whatsoever have been made by the Commission or any member, officer, employee, agent, or representative of the Commission in consideration of this Offer.” Even if Division staff did make such statements to Spitzer, qualified assurances do not amount to a promise that Spitzer would always be able to find a clearing broker to service his clients. As noted, any number of other possibilities could cause a clearing broker to deny Spitzer access to its platform.

III. Spitzer has identified no other compelling circumstance that justifies vacating the Supervisory Limitation.

As further reasons to vacate the Supervisory Limitation, Spitzer asserts that he is in his seventies; he has been in the securities industry for over 35 years; he has no other employment prospects; his misconduct was not egregious; and he has a “history of compliance,” with no additional disciplinary action since the Settled Order. He also represents that he timely paid the financial penalty imposed by the Settled Order and that APA’s clients neither complained about

¹⁴ Cf. *Tara Gold Res. Corp. v. SEC*, 678 F.3d 557, 559 (7th Cir. 2012) (holding that, even if the court set aside the Commission’s decision to revoke the registration of the petitioner’s securities, “[n]othing we could do would oblige” a third party “to allow trading to resume”).

¹⁵ See *Amico*, 2024 WL 3291362, at *4 (denying motion to vacate supervisory bars and concluding that the fact that the bars purportedly hindered clearing and settlement relationships and negatively affected the generation of new business are natural and foreseeable consequences of the bars); *Stephen S. Wien*, Exchange Act Release No. 49000, 2003 WL 23094748, at *5 (Dec. 29, 2003) (concluding that hindering dealings with prospective business associates is not an unanticipated consequence of a bar).

nor lost money due to the Sztroms' conduct. Even taken together, however, these factors do not favor vacating the Supervisory Limitation.¹⁶

As explained, the potential impacts were foreseeable and his age, the nature of his misconduct, and his compliance history were all known when he and the Commission agreed to the Settled Order's terms. We "expect financial industry professionals to comply with our orders,"¹⁷ and four years of post-settlement compliance is not the type of compelling circumstance that warrants modification.¹⁸ Nor does lack of customer harm justify modifying a settled order.¹⁹

Moreover, the Settled Order specifies that Spitzer can apply to act in a supervisory capacity under certain conditions, but he has not attempted to do so.²⁰ Instead, Spitzer essentially seeks to do the opposite: he represents that he is willing to commit in writing *not* to work in a supervisory capacity, and he seeks to vacate the Supervisory Limitation only because of the possibility that the limitation may cause clearing brokers to deny him access to their platforms. We recognize the potential financial harm Spitzer claims he will suffer if he cannot access clearing brokers' platforms. But, as explained, Spitzer was aware of this risk when he settled, and granting his requested relief would not necessarily ensure that clearing brokers will allow Spitzer to access their platforms. Nor would a written representation from Spitzer that he will not act in a supervisory role have the same force as the Settled Order.²¹

¹⁶ See *Amico*, 2024 WL 3291362, at *2 (denying motion to vacate supervisory bars after weighing multiple factors and noting that "[n]ot all of these factors will be relevant in determining the appropriateness of relief in a particular case, and no one factor is dispositive").

¹⁷ *Brett Thomas Graham*, Exchange Act Release No. 84106, 2018 WL 4348490, at *4, *10 (Sept. 12, 2018) (cleaned up) (denying request to modify settled order), *petition denied*, 794 F. App'x 81 (2d Cir. 2019).

¹⁸ See *John Gardner Black*, Exchange Act Release No. 70318, 2013 WL 4737370, at *5–6 (Sept. 4, 2013) (denying petition to vacate associational bar and concluding that the passage of 15 years since the imposition of a bar does not weigh in favor of vacating the bar).

¹⁹ See *Calhoun Asset Mgmt.*, 2024 WL 147796, at *3 (finding that, even assuming respondent's clients were not harmed by his violations, such lack of customer harm does not provide compelling circumstances needed to justify the vacatur of an associational bar because it "would not undermine the Commission's underlying findings of violations").

²⁰ See, e.g., *Fred F. Liebau, Jr.*, Exchange Act Release No. 92353, 2021 WL 2863016, at *2 (July 8, 2021) ("Generally, we first grant consent to associate before granting a petition to vacate."); *Graham*, 2018 WL 4348490, at *5 (same).

²¹ Cf. *Brett Thomas Graham*, Exchange Act Release No. 84526, 2018 WL 5734348, at *4 & n.17 (Nov. 2, 2018) (concluding, in the context of an application under Rule of Practice 193, that respondent's proposed voluntary limitations on his activities did "not provide assurance that the conduct that led to the imposition of the bar will not reoccur" and they "afford[ed] no opportunity for Commission oversight or independent confirmation that they are being followed"), *petition denied*, 794 F. App'x 81 (2d Cir. 2019).

* * *

For the above reasons, we find that Spitzer has not demonstrated compelling circumstances that justify vacating the Supervisory Limitation to which he agreed.

Accordingly, IT IS ORDERED that the motion of Paul C. Spitzer to vacate the limitation on supervisory activities imposed by the Commission's January 14, 2021, order is DENIED.²²

By the Commission.

Vanessa A. Countryman
Secretary

²² We deny Spitzer's motion for a hearing and oral argument. No statute or rule requires either under these circumstances, and we have determined that holding one would not significantly aid our decisional process. *See* Rule of Practice 154(a), 17 C.F.R. § 201.154(a) ("No oral argument shall be heard on any motion unless the Commission or the hearing officer otherwise directs.").