

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 83613 / July 10, 2018**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 4965 / July 10, 2018**

**ADMINISTRATIVE PROCEEDING**  
**File No. 18590**

**In the Matter of**

**Romano Brothers &  
Company,**

**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTION 15(b) OF THE SECURITIES  
EXCHANGE ACT OF 1934 AND  
SECTIONS 203(e) AND 203(k) OF THE  
INVESTMENT ADVISERS ACT OF 1940,  
MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND A CEASE-  
AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Romano Brothers & Company (“Romano Brothers” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

### **III.**

On the basis of this Order and Respondent's Offer, the Commission finds that:

#### **Summary**

1. These proceedings arise out of Romano Brothers' violation of the testimonial rule under the Advisers Act which states that it shall constitute a fraudulent, deceptive or manipulative act, practice, or course of business for any SEC-registered investment adviser to publish, circulate or distribute any advertisement which refers to, among other things, any testimonial of any kind concerning the investment adviser. Specifically, Romano Brothers violated the testimonial rule by publishing two videos containing client testimonials about Romano Brothers and the advice and services it renders. These testimonial videos were available to the public on both Romano Brothers' public website and on YouTube.com from approximately August 2012 through April 2017. By publishing videos containing client testimonials, Romano Brothers violated Section 206(4) of the Advisers Act and Rule 206(4)-1(a)(1) thereunder.

#### **Respondent**

2. Romano Brothers & Company is an Illinois corporation based in Evanston, Illinois, which provides brokerage and investment advisory services to individual, corporate, and institutional investors. Romano Brothers has 11 investment adviser representatives and has been registered with the Commission as an investment adviser since 1986 and as a broker-dealer since 1968.

#### **Facts**

3. In 2012, Romano Brothers commissioned the creation of a video entitled "The Romano Story," for use at its 50<sup>th</sup> Anniversary party. The video, which was approximately 31 minutes long, contained statements by 27 investment advisory clients about their experiences with the firm. Among other things, certain of the clients stated that they had profited from Romano Brothers' services and that Romano Brothers' services had provided them with income, security and peace of mind.

4. In August 2012, Romano Brothers showed the video to guests at the firm's 50<sup>th</sup> Anniversary party. Shortly thereafter, Romano Brothers published the video on its public website and on YouTube.com. Between August 2012 and March 2017, the video obtained at least 291 views on YouTube.com.

5. In early 2014, Romano Brothers commissioned a shorter version of "The Romano Story" video for use in marketing the firm. This version of the video, which was approximately eight minutes long, contained many of the same client statements that were included in the longer version of the video. Romano Brothers published the eight-minute video on its public website and on YouTube.com in March 2014. Between March 2014 and March 2017, the eight-minute video obtained at least 117 views on YouTube.com.

6. The two videos remained on Romano Brothers' public website and on YouTube.com until March and April 2017 when Romano Brothers deleted the videos.

### **Violation**

7. As a result of the conduct described above, Romano Brothers willfully<sup>1</sup> violated Section 206(4) of the Advisers Act and Rule 206(4)-1(a)(1) thereunder, which states that it shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business for any investment adviser registered or required to be registered under the Advisers Act, directly or indirectly, to publish, circulate, or distribute any advertisement which, among other things, refers, directly or indirectly, to any testimonial of any kind concerning the investment adviser or concerning any advice, analysis, report or other service rendered by such investment adviser.

### **Romano Brothers' Remedial Efforts**

8. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff. Among other things, Romano Brothers hired a new Chief Compliance Officer and updated its compliance manual and training program.

## **IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Section 15(b) of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondent Romano Brothers cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-1(a)(1) thereunder.

B. Respondent Romano Brothers is censured.

C. Respondent Romano Brothers shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$15,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section

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<sup>1</sup> A willful violation of the securities laws means merely ““that the person charged with the duty knows what he is doing.”” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor ““also be aware that he is violating one of the Rules or Acts.”” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Romano Brothers & Company as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Anne C. McKinley, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Boulevard, Suite 1450, Chicago, IL 60604.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty

imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields  
Secretary