

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5412 / November 22, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19605

In the Matter of

**CHANNING CAPITAL
MANAGEMENT, LLC,**

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
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 Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), against Channing Capital Management, LLC (“Channing” 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 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. This matter arises from Channing’s failure to adequately implement written policies and procedures governing the allocation of trading commission costs associated with aggregated

(or block) securities trades on behalf of its institutional investor and pension fund clients. Channing's written trade aggregation and allocation policies and procedures required it to allocate the transaction costs associated with block trades on a *pro rata* basis amongst all clients participating in the same block trade. A separate written policy and procedure required Channing to follow the requirements and restrictions set forth in each client's investment management agreement, including limitations placed on trading commissions. Certain of Channing's institutional clients placed limitations on the amount they were willing to pay in commission rates for execution of their brokerage transactions. Channing routinely conveyed those clients' restrictions to executing brokers and requested that executing brokers apply lower commission rates for those clients while permitting them to participate in block trades with Channing's other clients. This practice resulted in clients participating in the same block trade paying different commission rates. By failing to adequately implement its policies and procedures, Channing violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

Respondent

2. Channing, a Delaware limited liability company based in Chicago, Illinois, is a privately-held investment management firm that provides institutional investment management services to institutional investors and pension funds. In its ADV-Part 2 Brochure dated March 1, 2019, Channing reported discretionary assets under management of approximately \$2.3 billion. Channing has been registered with the Commission as an investment adviser since 2003.

Facts

3. From at least January 2014 to January 2018 (the "Relevant Period"), among other services, Channing offered U.S. domestic equity investment portfolio products to institutional investors and pension funds (collectively, "Clients"). Channing had discretion to buy and sell equity securities on behalf of its Clients, subject to various client-imposed mandates, requirements, and restrictions set forth in the Clients' investment management agreements and accompanying investment and trading guidelines and restrictions.

4. When Channing elected to buy or sell the same security on behalf of multiple Clients using its trading discretion, Channing's practice was to aggregate (or block) the trade orders of all of its Clients and process them as a single block trade to obtain the same price per share for all Clients included in the trade.

5. In accordance with Rule 206(4)-7 under the Advisers Act, Channing prepared and adopted a set of written compliance and supervisory policies and procedures ("Compliance Manual"), including policies and procedures related to the aggregation of securities trades.

6. In pertinent part, Channing's trade aggregation policies stated that the "terms negotiated for the aggregated order will apply equally to each participating client," and that the "price of the securities purchased or sold in an aggregated order will be at the average share price for all transactions of the clients in that security on a given day, with all transaction costs shared on a pro rata basis."

7. Channing's Compliance Manual separately required compliance with and observance of "all policies, prohibitions and restrictions mandated by a client" and adherence to Clients' investment and trading-brokerage guidelines and restrictions.

8. Four of Channing's approximately 35-45 institutional Clients during the Relevant Period included a provision in their investment management agreements or trading-brokerage restrictions that placed limitations on the amount they were willing to pay in commission rates for execution of their brokerage transactions. These Clients restricted the commission rate for execution of their transactions to no more than \$0.03 to \$0.035 per share. The other Clients did not specify or otherwise limit the commission rate they were willing to pay.

9. During the Relevant Period, Channing routinely aggregated the trades of Clients who restricted the commission rates for execution of their transactions in their investment management agreements with the trades of Clients who did not impose similar commission rate restrictions. In those instances, Channing conveyed the commission rate restrictions to the executing broker and requested that the executing broker apply the lower commission rate for the Clients who had placed restrictions. The executing brokers routinely agreed to Channing's request to limit their commissions charged to those specific Clients, while charging Channing's other Clients a higher commission rate.

10. This practice resulted in certain block trades in which most of Channing's Clients paid commission rates of \$0.04 per share, while the Clients who had placed restrictions on their execution commission rates paid commission rates of only \$0.03 or \$0.035 per share.

11. While Channing disclosed to its institutional Clients that it would observe their investment mandates and restrictions, Channing did not disclose to all affected Clients that some Clients in certain block trades paid a lower commission rate than other Clients who participated in the same block trades.

12. By engaging in the above practices, Channing failed to comply with its written trade aggregation policies and procedures as to *pro rata* allocation of trading costs as specified in its Compliance Manual.

Violation

13. As a result of the conduct described above, Channing willfully¹ violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require investment advisers to

¹ "Willfully," for purposes of imposing relief under Section 203(e) of the Advisers Act, "means no more than 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." *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). The decision in *The Robare Group*,

adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder.

Channing's Remedial Efforts

14. In determining to accept Channing's Offer, the Commission considered both the voluntary remedial acts promptly undertaken by Channing and its cooperation with the Commission staff. In January 2018, Channing voluntarily changed its practices to avoid block trades being executed with differential commission rates. In December 2018 and April 2019, Channing further revised its policies and procedures to require that each Client who placed a restriction on its execution commission rate provide Channing with standing authority either to (1) depart from its restriction in order to allow the Client to participate in an aggregated trade at the same price and commission rate as all other Clients or (2) remove the Client's trade from an aggregated trade and execute it at a possibly higher price while observing the Client's restriction.

IV.

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

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

- A. Respondent 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)-7 promulgated thereunder.
- B. Respondent is censured.
- C. Respondent shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$50,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Securities Exchange Act of 1934 Section 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;

Ltd. v. SEC, which construed the term "willfully" for purposes of a differently structured statutory provision, does not alter that standard. 922 F.3d 468, 478-79 (D.C. Cir. 2019) (setting forth the showing required to establish that a person has "willfully omit[ted]" material information from a required disclosure in violation of Section 207 of the Advisers Act).

- (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 Channing Capital Management, LLC 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.

C. 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.

Vanessa A. Countryman
Secretary