

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 94352 / March 3, 2022**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 5973 / March 3, 2022**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20789**

**In the Matter of**

**CITY NATIONAL  
ROCHDALE, 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 City National Rochdale, LLC (“CNR” 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 concerns breaches of fiduciary duty by registered investment adviser City National Rochdale relating to its use of proprietary mutual funds and share classes that charged some clients higher fees than others.
2. Clients give CNR discretionary authority to trade in their accounts. When investing client assets in mutual funds, CNR's practice is to invest those assets in proprietary mutual funds that generate fees for the firm and its affiliates, rather than competitor funds within the same asset classes that may not generate such fees. Had CNR clients known of this practice, they could have directed the firm not to use proprietary mutual funds when investing some or all of their assets. However, CNR did not fully and fairly disclose this practice and the related conflicts of interest to its clients. CNR thus failed to provide its clients the information they needed to give informed consent to, or to reject, these conflicts of interest. CNR committed these disclosure violations from at least 2016 through 2019.
3. In addition, CNR failed to disclose to prospective clients that they could invest in CNR's proprietary mutual funds at lower cost. The proprietary mutual funds in which CNR invests client assets generally have at least two share classes: one that charges investors "12b-1" fees and one that does not. These fees are paid to an affiliate of CNR. The share class in which CNR invests its clients' assets depends on how the clients chose to open their accounts with CNR. Clients who open accounts with CNR through City National Bank or City National Securities, Inc., which are affiliates of CNR, do not pay 12b-1 fees.<sup>1</sup> However, most clients who invest with CNR through their own financial advisors do. From at least 2016 through January 2019, CNR failed to disclose to prospective clients who were introduced to CNR by their third-party financial advisors that investors who opened their accounts at CNR through the firm's affiliates would pay lower fees for proprietary mutual fund investments than if they opened their CNR accounts through those financial advisors.
4. As a consequence of these breaches of fiduciary duty, CNR willfully violated Section 206(2) of the Advisers Act. CNR also willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder by failing to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with its use of proprietary funds and its disclosures of related conflicts of interest.

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<sup>1</sup> In most instances, CNR invested those clients' assets in proprietary fund share classes that did not charge 12b-1 fees. For proprietary funds that did not have such share classes, CNR rebated the 12b-1 fees to those clients. CNR also rebated the 12b-1 fees paid by one proprietary fund that did not allow all clients who opened accounts through these affiliates to invest in those share classes.

## Respondent

5. **City National Rochdale, LLC**, a wholly owned subsidiary of City National Bank, is a Delaware limited liability company with its principal place of business in New York, NY. It has been registered with the Commission as an investment adviser since 1986. It provides advisory services to individuals who give the firm discretionary authority to trade on their behalf. CNR also acts as an investment adviser to mutual funds offered by City National Rochdale Funds. CNR has total assets under management of approximately \$45 billion.

## Other Relevant Entities

6. **City National Bank** is a wholly owned subsidiary of RBC USA Holdco Corporation, which is a wholly owned indirect subsidiary of Royal Bank of Canada. It is a Los Angeles-based bank that offers banking, trust, and investment services. City National Bank directly or indirectly owns and is an affiliate of CNR; CNR Securities, LLC; and City National Securities, Inc.

7. **City National Rochdale Funds** is a Delaware statutory trust registered under the Investment Company Act of 1940 as an open-end management investment company. Since 2016, it has offered a series of between ten and fourteen mutual funds (collectively, the “Proprietary Funds”). CNR is the investment adviser to the Proprietary Funds.

8. **CNR Securities, LLC** (“CNR Securities”) is a Delaware limited liability company registered with the Commission as a broker-dealer since 1986. It is owned by City National Rochdale Holdings, LLC. Its primary place of business is New York, NY.

9. **City National Securities, Inc.** (“City National Securities”) is a California corporation and dually-registered broker-dealer and investment adviser whose primary place of business is Los Angeles, CA. It is a wholly-owned subsidiary of City National Bank.

## CNR’s Disclosure Failures Regarding Its Use of Proprietary Funds

10. CNR markets itself as providing “intelligently personalized investment portfolios.” After agreeing to a specified asset allocation among various classes of securities in consultation with CNR, clients give CNR discretionary authority to execute its investment strategies for their accounts.

11. For each asset class, CNR generally invests clients’ funds in an internally-developed “model portfolio” of stocks and bonds. If it is not prudent or possible to invest the client’s assets in each of the individual securities in CNR’s model portfolio, the firm invests the assets in a mutual fund instead.

12. In doing so, CNR’s practice is to invest those clients’ assets in Proprietary Funds offered by City National Rochdale Funds for which CNR is the investment adviser. CNR designed these funds to track the respective asset class allocations used in its model portfolios.

13. Unlike investing in the individual stocks and bonds in the model portfolios, however, CNR’s use of Proprietary Funds creates a conflict of interest for the firm. As

Proprietary Funds' assets under management increases through clients' investments, so do the fees that CNR and its affiliates receive. CNR earns additional advisory fees from certain Proprietary Funds when it invests clients' assets in those funds. CNR's affiliates receive shareholder servicing fees from clients' investments in the Proprietary Funds. And as described below, CNR's affiliated broker-dealer receives 12b-1 fees from certain clients' investments in Proprietary Funds. Thus, the more CNR invests clients' money in Proprietary Funds, the more fees it and its affiliates receive.

14. As an investment adviser with a fiduciary duty to its clients, CNR is obligated to disclose all material facts to its clients that could affect the advisory relationship, including any conflicts of interest between itself and/or its associated persons (including its affiliates) and its clients, and how those conflicts could affect the advice CNR gives clients.<sup>2</sup> To meet this obligation, CNR is required to provide its clients full and fair disclosures that are sufficiently specific to allow them to understand all material conflicts of interest concerning CNR's advice and to have an informed basis on which they could consent to or reject the conflicts.

15. From at least 2016 through 2019, CNR failed to fully and fairly inform clients that, when purchases of individual securities were not feasible in their accounts, it would generally unless the client directed otherwise invest their assets in Proprietary Funds that generated fees for CNR or its affiliates, rather than peer funds within the same asset classes. Thus, CNR failed to provide its clients with the information they needed to give informed consent to, or reject, CNR's conflict of interest when investing their assets in Proprietary Funds.

#### **CNR's Disclosure Failures Regarding Lower-Cost Investments in Proprietary Funds**

16. In addition to its disclosure failures relating to its use of Proprietary Funds, CNR failed to disclose to certain prospective clients that they could invest in Proprietary Funds at a lower cost.

17. Mutual funds typically offer investors different types of shares or "share classes." Each share class represents an interest in the same portfolio of securities with the same investment objective. The primary difference among the share classes is the fee structure.

18. For example, some mutual fund share classes charge fees pursuant to Rule 12b-1 under the Investment Company Act of 1940 ("12b-1 fees") to cover certain costs of fund distribution and sometimes shareholder service expenses. These recurring fees, which are

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<sup>2</sup> It is a long-standing principle that an investment adviser must "disclose any potential conflicts of interest accurately and completely." *Vernazza v. SEC*, 327 F.3d 851, 860 (9th Cir. 2003); *Feeley & Willcox Asset Mgmt. Corp.*, Exchange Act Rel. No. 48162, 2003 WL 22680907, at \*11 (July 10, 2003) (Commission Opinion) ("In practical terms, when clients receive a recommendation from their investment adviser, that recommendation must be coupled with disclosure regarding any financial interest the adviser may have in the transaction."). See also *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 201 (1963) (noting that an investment adviser must "fully and fairly reveal[] his personal interests in [his] recommendations to his clients"); *Laird v. Integrated Res., Inc.*, 897 F.2d 826, 835 (5th Cir. 1990) ("[A]n investment adviser is a fiduciary and therefore has an affirmative duty of utmost good faith to avoid misleading clients. This duty includes disclosure of all material facts and all possible conflicts of interest.").

included in a mutual fund's total annual fund operating expenses, vary by share class, but typically range from 25 to 100 basis points. They are deducted from the mutual fund's assets on an ongoing basis and paid to the fund's distributor or principal underwriter, which generally remits the 12b-1 fees to the broker-dealer that distributed or sold the shares.

19. Many mutual funds also offer share classes that do not charge 12b-1 fees.<sup>3</sup> An investor who holds one of these shares of a mutual fund will usually pay lower total annual fund operating expenses over time – and thus will generally earn higher returns – than one who holds a share class of the same fund that charges 12b-1 fees. Therefore, if a mutual fund offers a share that does not charge 12b-1 fees, and an investor is eligible to own it, it is generally better for the investor to purchase or hold that share.

20. Almost all of the Proprietary Funds CNR advises have both share classes described above: one share class that charged 12b-1 fees, and at least one share class that did *not* charge 12b-1 fees.

21. The type of share class in which CNR invests clients' assets depends on how CNR labels those clients. CNR considers clients who are introduced to the firm by affiliated entities City National Bank and City National Securities to be "bank channel" clients. For example, an account holder could express interest in investment advisory services to their banker at one of City National Bank's 75 offices or to their financial advisor at City National Securities. That financial advisor or banker could then refer them to CNR. If the account holder becomes a CNR client through that referral, CNR would consider them a bank channel client. Bank channel clients do not pay 12b-1 fees for their investments in Proprietary Funds.<sup>4</sup>

22. All other clients, such as those who invest with CNR through their third-party financial advisors, are considered "independent channel" clients. Independent channel clients generally pay 12b-1 fees for Proprietary Fund investments because the Proprietary Funds did not allow investments in share classes that do not pay those fees by independent channel clients.<sup>5</sup>

23. CNR has a conflict of interest in investing clients' assets in the Proprietary Fund share classes that pay 12b-1 fees because those fees are paid to the firm's affiliated broker-dealer, CNR Securities.

24. CNR was required to fully and fairly disclose all material facts concerning its conflict of interest, including that independent channel clients could invest in Proprietary Funds at lower cost. CNR did not do so. From at least 2016 through January 2019, CNR's Form ADV

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<sup>3</sup> These are often known as "Institutional Class" or "Class I" shares, though share classes that do not charge 12b-1 fees also go by a variety of other names in the mutual fund industry.

<sup>4</sup> In most instances, CNR invested those clients' assets in Proprietary Fund share classes that did not charge 12b-1 fees. For Proprietary Funds that did not have such share classes, CNR rebated the 12b-1 fees to those clients. CNR also rebated the 12b-1 fees paid by one Proprietary Fund that did not allow all bank channel clients to invest in those share classes.

<sup>5</sup> Independent channel clients do not receive rebates of 12b-1 fees except in ERISA or other tax-deferred accounts.

only informed current and prospective independent channel clients that CNR affiliates “receive shareholder servicing and/or 12b-1 fees paid by certain classes of the [Proprietary] Funds.” This was insufficient because it did not disclose to the prospective clients who were introduced to CNR by their third-party financial advisors that they could invest in Proprietary Funds at lower cost.

### **Compliance Deficiencies**

25. CNR failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder in connection with its use of proprietary funds and its disclosures of related conflicts of interest.

### **Violations**

26. As a result of the conduct described above, CNR willfully<sup>6</sup> violated Section 206(2) of the Advisers Act, which prohibits an investment adviser from, directly or indirectly, engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

27. As a result of the conduct described above, CNR willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require investment advisers to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules.

### **Disgorgement and Civil Penalties**

28. The disgorgement and prejudgment interest ordered in paragraph IV.C. is consistent with equitable principles and does not exceed Respondent’s net profits from its violations, and will be distributed to harmed investors to the extent feasible. Upon approval of the distribution final accounting by the Commission, any amounts remaining that are infeasible to return to investors, and any amounts returned to the Commission in the future that are infeasible to return to investors, may be transferred by the Commission to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 (“Exchange Act”).

### **Undertakings**

29. Respondent has undertaken to:

a. Notice to Advisory Clients Within 30 days of the entry of this Order,

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<sup>6</sup> “Willfully,” for purposes of imposing relief under Sections 203(e) and (k) 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, 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).

Respondent shall notify advisory clients for whose accounts CNR utilized Proprietary Funds between March 2016 and December 2019 (“Affected Investors”) of the settlement terms of this Order by sending a copy of this Order to each Affected Investor via email, mail, or such other method not unacceptable to the Commission staff, together with a cover letter in a form not unacceptable to the Commission staff.

- b. Retention of Independent Compliance Consultant Within 30 days of the issuance of this Order, Respondent shall retain the services of an Independent Compliance Consultant (“Independent Consultant”) not unacceptable to the staff of the Commission and provide a copy of this Order to the Independent Consultant. No later than 10 days following the date of the Independent Consultant’s engagement, Respondent shall provide the Commission staff with a copy of the engagement letter detailing the Independent Consultant’s responsibilities, which shall include the reviews and reports to be made by the Independent Consultant as set forth in this Order. The Independent Consultant’s compensation and expenses shall be borne exclusively by Respondent.
- c. Independent Consultant’s Reviews Respondent shall require the Independent Consultant to:
  - i. Review the firm’s practices, disclosures, and written policies and procedures concerning use of proprietary funds and its disclosures of related conflicts of interest, as well as the firm’s written policies and procedures related thereto;
  - ii. At the end of the review, but no later than 180 days after the entry of this Order, submit a written and dated report to CNR and the Commission staff that shall include a description of the review performed, the names of the individuals who performed the review, the Independent Consultant’s findings and recommendations for changes or improvements to the disclosures, policies, and procedures, and a procedure for implementing the recommended changes and improvements;
  - iii. Conduct one annual review 365 days from the date of the issuance of the Independent Consultant’s initial report, to assess whether CNR is complying with its then-current disclosures, policies, and procedures, and whether the then-current disclosures, policies, and procedures are effective in achieving their stated purposes; and
  - iv. At the end of the annual review, which in no event shall be more than 180 days from the date that the annual review commenced, submit a written annual report to CNR and the Commission staff that shall include a description of its findings and recommendations, if any, for additional changes or improvements to the disclosures, policies, and

procedures, and a procedure for implementing the recommended changes and improvements.

- d. Respondent shall, within 45 days of receipt of each of the Independent Consultant's reports, adopt all recommendations contained in the reports, provided, however, that within 30 days after the date of the applicable report, Respondent shall in writing advise the Independent Consultant and the Commission staff of any recommendations that it considers to be unduly burdensome, impractical, or inappropriate. With respect to any recommendation that Respondent considers to be unduly burdensome, impractical, or inappropriate, Respondent need not adopt that recommendation at that time but Respondent shall instead propose in writing to the Independent Consultant and Commission staff an alternative policy or procedure designed to achieve the same objective or purpose as that recommended by the Independent Consultant. Respondent shall attempt in good faith to reach an agreement with the Independent Consultant on any recommendations objected to by Respondent. Within 15 days after the conclusion of the discussion and evaluation by Respondent and the Independent Consultant, Respondent shall require that the Independent Consultant inform Respondent and the Commission staff in writing of the Independent Consultant's final determination concerning any recommendation. At the same time, Respondent may seek approval from the Commission staff to not adopt the recommendations that Respondent can demonstrate to be unduly burdensome, impractical, or inappropriate. In the event that Respondent and the Independent Consultant are unable to agree on an alternative proposal within 30 days and the Commission staff does not agree that any proposed recommendations are unduly burdensome, impractical, or inappropriate, Respondent shall abide by the determinations of the Independent Consultant.
- e. Within 30 days of Respondent's adoption and implementation of all of the recommendations in the Independent Consultant's reports that the Independent Consultant deems appropriate, as determined pursuant to the procedures set forth herein, Respondent shall certify in writing to the Independent Consultant and the Commission staff that Respondent has adopted and implemented all recommendations in the applicable report. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence.
- f. Respondent shall cooperate fully with the Independent Consultant and shall provide the Independent Consultant with access to such of its files, books, records, and personnel as reasonably requested for the Independent Consultant's review, including access by on-site inspection.
- g. To ensure the independence of the Independent Consultant, Respondent (1) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant without prior written approval of the Commission staff; and (2) shall



compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

- h. The deadlines in this Undertaking shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day. For good cause shown, the Commission staff may extend any of the deadlines relating to these undertakings.
- i. Respondent shall require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with CNR, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Commission staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with CNR, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
- j. Respondent shall not be in, and shall not have an attorney-client relationship with the Independent Consultant and shall not seek to invoke the attorney-client privilege or any other doctrine of privilege to prevent the Independent Consultant from transmitting any information, reports, or documents to the Commission staff.
- k. The reports by the Independent Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) is otherwise required by law.
- l. Respondent shall certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees

to provide such evidence. The certification and supporting material shall be submitted to Melissa Hodgman, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549, with a copy to the Office of Chief Counsel of the Enforcement Division, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549, no later than 60 days from the date of the completion of the undertakings.

#### IV.

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

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

A. Respondent CNR cease and desist from committing or causing any violations and any future violations of Section 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Respondent CNR is censured.

C. Respondent CNR shall pay disgorgement, prejudgment interest, and a civil penalty, totaling \$30,361,804 as follows:

(i) Respondent shall pay disgorgement of \$22,013,613 and prejudgment interest of \$2,848,191, consistent with the provisions of this Subsection C.

(ii) Respondent shall pay a civil money penalty in the amount of \$5,500,000, consistent with the provisions of this Subsection C.

(iii) Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the disgorgement, prejudgment interest and penalties described above for distribution to Affected Investors. 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.

(iv) Within 10 days of the entry of this Order, Respondent shall deposit the payments of the disgorgement, prejudgment interest, and civil penalty (the “Fair Fund”) into an escrow account at a financial institution not unacceptable to the Commission staff and Respondent shall provide the Commission staff with evidence of such deposits in a form acceptable to the Commission staff. The account holding the assets of the Fair Fund shall bear the name and the taxpayer identification number of the Fair Fund. If timely payment into the escrow account is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 [17 C.F.R. § 201.600] and/or 31 U.S.C. §3717

(v) Respondent shall be responsible for administering the Fair Fund and may hire a professional at its own cost to assist it in the administration of the distribution. The costs and expenses of administering the Fair Fund, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.

(vi) Respondent shall distribute from the Fair Fund to each Affected Investor, defined above in the aggregate as advisory clients for whose accounts CNR utilized Proprietary Funds between March 2016 and December 2019, an amount representing: (a) a pro-rata share of the 12b-1 fees attributable to the Affected Investor for investments in Proprietary Funds; (b) a pro-rata share of the shareholder servicing fees attributable to the Affected Investor for investments in Proprietary Funds; and (c) a pro-rata share of the advisory fees from Proprietary Funds that CNR did not fully rebate to clients that are attributable to the Affected Investor; and reasonable interest paid on such fees, pursuant to a disbursement calculation (the “Calculation”) that will be submitted to, reviewed, and approved by the Commission staff in accordance with this Subsection C. Reasonable interest will be calculated using the Short-term Applicable Federal Rate plus three percent (3%), compounded quarterly from the end of 2019 through the approximate date of the disbursement of the Fair Fund. This Calculation shall be subject to a *de minimis* threshold. No portion of the Fair Fund shall be paid to any Affected Investor account in which Respondent, or any of its current or former officers or directors, has a financial interest.

(vii) Respondent shall, within 90 days of the entry of this Order, submit the Calculation to the Commission staff for review and approval. At or around the time of submission of the proposed Calculation to the staff, Respondent shall make itself available, and shall require any third-parties or professionals retained by Respondent to assist in formulating the methodology for its Calculation and/or administration of the distribution to be available, for a conference call with the Commission staff to explain the methodology used in preparing the proposed Calculation and its implementation, and to provide the staff with an opportunity to ask questions. Respondent also shall provide the Commission staff such additional information and supporting documentation as the Commission staff may request for

the purpose of its review. In the event that one or more objections by the Commission staff to Respondent's proposed Calculation or any of its information or supporting documentation, Respondent shall submit a revised Calculation for the review and approval of the Commission staff or additional information or supporting documentation within 10 days of the date that the Commission staff notifies Respondent of the objection. The revised Calculation shall be subject to all of the provisions of this Subsection C.

(viii) Respondent shall, within 30 days of the written approval of the Calculation by the Commission staff, submit a payment file (the "Payment File") for review and acceptance by the Commission staff demonstrating the application of the methodology to each Affected Investor. The Payment File should identify, at a minimum, (1) the name of each Affected Investor; (2) the net amount of the payment to be made, less any tax withholding ; (3) the amount of any de minimis threshold to be applied; and (4) the amount of reasonable interest paid.

(ix) Respondent shall complete the disbursement of all amounts payable to Affected Investors within 90 days of the date the Commission staff accepts the Payment File unless such time period is extended as provided in Paragraph (xiii) of this Subsection C. Respondent shall notify the Commission staff of the date and the amount paid in the initial distribution.

(x) If Respondent is unable to distribute or return any portion of the Fair Fund for any reason, including an inability to locate an Affected Investor or a beneficial owner of an Affected Investor or any factors beyond Respondent's control, Respondent shall transfer any such undistributed funds to the Commission for transmittal to the United States Treasury in accordance with Section 21F(g)(3) of the Exchange Act when the distribution of funds is complete and before the final accounting provided for in Paragraph (xii) of this Subsection C is submitted to the Commission staff. Payment must be made in one of the following ways:

a. Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

b. 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

c. 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 CNR 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 Rami Sibay, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

(xi) A Fair Fund is a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code (“IRC”), 26 U.S.C. §§ 1.468B.1-1.468B.5. Respondent agrees to be responsible for all tax compliance responsibilities associated with the Fair Fund’s status as a QSF. These responsibilities involve reporting and paying requirements of the Fund, including but not limited to: (1) tax returns for the Fair Fund; (2) information return reporting regarding the payments to investors, as required by applicable codes and regulations; and (3) obligations resulting from compliance with the Foreign Account Tax Compliance Act (FATCA). Respondent may retain any professional services necessary. The costs and expenses of tax compliance, including any such professional services, shall be borne by Respondent and shall not be paid out of the Fair Fund.

(xii) Within 150 days after Respondent completes the disbursement of all amounts payable to Affected Investors, Respondent shall return all undisbursed funds to the Commission pursuant to the instructions set forth in this Subsection C. Respondent shall then submit to the Commission staff a final accounting and certification of the disposition of the Fair Fund for Commission approval, which final accounting and certification shall include, but not be limited to: (1) the amount paid to each payee, with the reasonable interest amount, if any, reported separately; (2) the date of each payment; (3) the check number or other identifier of the money transferred; (4) the amount of any returned payment and the date received; (5) a description of the efforts to locate a prospective payee whose payment was returned or to whom payment was not made for any reason; (6) the total amount, if any, to be forwarded to the Commission for transfer to the United States Treasury; and (7) an affirmation that Respondent has made payments from the Fair Fund to Affected Investors in accordance with the Calculation approved by the Commission staff. The final accounting and certification shall be submitted under a cover letter that identifies Respondent and the file number of these proceedings to Rami Sibay, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549, or such other address as the Commission staff may provide. Respondent shall provide any and all supporting documentation for the accounting and certification to the Commission staff upon its request, and shall cooperate with any additional requests by the Commission staff in connection with the accounting and certification.

(xiii) The Commission staff may extend any of the procedural dates set forth in this Subsection C for good cause shown. Deadlines for days relating to the Fair Fund shall be counted in calendar days, except if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

D. Respondent shall comply with the undertakings enumerated in paragraph 29 above.

By the Commission.

Vanessa A. Countryman  
Secretary