UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101130 / September 23, 2024

INVESTMENT ADVISERS ACT OF 1940
Release No. 6718 / September 23, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22157

In the Matter of

BRIGHTON SECURITIES CORP.

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 (the "Exchange Act") and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against Brighton Securities Corp. ("Brighton" 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[1] that:

Summary

These proceedings arise out of Brighton's failure to disclose to advisory clients conflicts of interest arising from various incentives Brighton received from the clearing firm that it recommended to its clients for clearing, execution, and custodial services ("Clearing Firm A"). Because of this failure, which also occurred at a now-closed Brighton affiliate that shared the same compliance personnel, and whose client accounts were taken over by Brighton, Brighton breached its fiduciary duty of care, in willful violation of Section 206(2) of the Advisers Act. In addition, Brighton failed to adopt and implement written policies and procedures reasonably designed to prevent such violations, in willful violation of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

Respondent

1. **Brighton Securities Corp.** is a New York corporation with its principal place of business in Rochester, New York. It is a subsidiary of Brighton Securities Holdings Inc. Brighton has been registered with the Commission as a broker-dealer since April 10, 1969 and as an investment adviser since September 8, 2003. Brighton provides investment advisory services primarily to individuals, trusts, estates, and small businesses. As of its most recent annual updating amendment to Form ADV, Brighton reported over $600 million in regulatory assets under management for 2,100 accounts.

Other Relevant Entity

2. **Brighton Securities Capital Management Inc.** ("BSCM") is a New York corporation that had its principal place of business in Rochester, New York. BSCM became a registered investment adviser with the Commission on May 14, 2021, and withdrew its registration effective June 28, 2024, after transferring all of its advisory client accounts to Brighton. BSCM was an operating subsidiary of Brighton Securities Holdings Inc. BSCM provided investment advisory services primarily to individuals, but also to trusts, estates, pension and profit sharing plans, and businesses. As of its annual updating amendment to Form ADV filed March 22, 2024, BSCM reported approximately $195 million in regulatory assets under management, all on a discretionary basis. It subsequently ceased operations.

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Brighton's Disclosure Issues

3. Brighton is a dually registered broker-dealer and investment adviser. Clearing Firm A provides clearing, execution, and custody services to Brighton's advisory clients and brokerage customers.

4. In 2020, Brighton renegotiated its clearing agreement and accompanying pricing schedule ("Clearing Agreement") with Clearing Firm A, effective April 1, 2020. The Clearing Agreement includes several incentives for Brighton to use Clearing Firm A's services. First, Brighton received a $500,000 payment from Clearing Firm A as a relationship extension award ("Relationship Extension Award"), which was contingent on Brighton signing the revised Clearing Agreement. Clearing Firm A paid Brighton that award on April 30, 2020. Second, Clearing Firm A agreed to pay Brighton a monthly client in good standing credit ("Client in Good Standing Credit") on a sliding scale from $15,000 to $25,000 a month depending on Brighton's total assets custodied with Clearing Firm A on behalf of both Brighton's advisory clients and brokerage customers. Third, Brighton must pay a termination fee ("Termination Fee") on a sliding scale ranging from $500,000 to $100,000 if its terminates the Clearing Agreement before August 31, 2025. Lastly, the Clearing Agreement has a "Minimum Monthly Clearing Fee" that imposed additional fees on Brighton unless it utilized at least $10,000 in clearing and execution services from Clearing Firm A each month. Since the Clearing Agreement became effective, Brighton has always used services exceeding the Minimum Monthly Clearing Fee payable to Clearing Firm A.

5. Brighton did not disclose the incentives related to the Clearing Agreement to its advisory clients and prospective clients until June 2022 when it revised its Firm Brochure for Part 2A of the Form ADV ("Firm Brochure") following an SEC examination. By that point, Clearing Firm A had paid Brighton approximately $1 million in total, from the Relationship Extension Award and Client in Good Standing Credits.

6. In July 2021, Brighton Securities Holdings Inc. acquired another adviser, Worth Considering, Inc. ("Worth Considering"), which became BSCM following the acquisition. Before the acquisition, Worth Considering used another firm for clearing, execution, and custody services ("Clearing Firm B"). After the acquisition, BSCM and Brighton shared compliance personnel to draft the firms' disclosures. Although BSCM had a preexisting relationship with Clearing Firm B, after the acquisition, it also used Clearing Firm A's services pursuant to Brighton's Clearing Agreement.

7. Although Brighton amended its Firm Brochure in June 2022 to disclose the various incentives associated with the Clearing Agreement, BSCM did not make any similar disclosures until March 2024. Moreover, before March 2024, in addition to failing to disclose the financial incentives and Termination Fee in the Clearing Agreement, the BSCM Firm Brochure inaccurately stated that BSCM's relationship with Clearing Firm A was not contingent on committing any specific amount of business to Clearing Firm A in trading commissions or assets in custody. That statement was inaccurate in that BSCM's accounts were included

together with Brighton's for purposes of satisfying the Minimum Monthly Clearing Fee (although Brighton's usage alone was sufficient to satisfy the Minimum Monthly Clearing Fee).

8. In March 2024, BSCM revised its Firm Brochure to address the various misstatements and omissions. Thereafter, it transferred all of its remaining advisory accounts to Brighton and ceased operations. It withdrew its registration with the Commission on June 28, 2024. As noted, before ceasing operations, BSCM shared compliance personnel with Brighton. BSCM's former employees are now all employees only of Brighton, which has taken over BSCM's operations and business.

Brighton's Compliance Deficiencies

9. Brighton failed to adopt and implement written policies and procedures reasonably designed to ensure that its disclosures to advisory clients included all material facts, including conflicts of interest. Brighton had investment advisory business compliance manuals in addition to its written supervisory policies applicable to its brokerage business. Although those policies generally acknowledged that the firm must "[d]isclose the existence of any incentives provided to our firm or shared between our firm and others," Brighton did not have procedures reasonably designed to identify, evaluate, or disclose conflicts of interest. As a result, Brighton failed to disclose the incentives Clearing Firm A provided for approximately two years.

10. Similarly, BSCM also failed to adopt and implement policies and procedures reasonably designed to disclose to clients all material facts, including conflicts of interest. Its compliance manuals and written supervisory policies were identical to Brighton's. Those policies generally acknowledged that it must disclose incentives it received or shared with others. As with Brighton, however, it did not have procedures reasonably designed to identify, evaluate, or disclose conflicts of interest. Consequently, it failed to disclose the conflicts of interest associated with Clearing Firm A until March 2024.

Violations

11. As a result of the conduct described above, Respondent willfully[2] violated Section 206(2) of the Advisers Act, which makes it unlawful for any investment adviser, directly or indirectly, to "engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." Scienter is not required to establish a violation of Section 206(2), but rather a violation may rest on a finding of negligence. *SEC v. Steadman*, 967

[2] "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, 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).

F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 194-95 (1963)).

12. As a result of the conduct described above, Respondent willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require a registered investment adviser to adopt and implement written policies and procedures reasonably designed to prevent violations, by the adviser or its supervised persons, of the Advisers Act and the rules thereunder. A showing of negligence is sufficient to establish a violation of Section 206(4) of the Advisers Act and the rules thereunder; proof of scienter is not required. *Steadman*, 967 F.2d at 647.

Brighton's Remedial Efforts

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondent and cooperation afforded the Commission staff.

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

B. Respondent Brighton is censured.

C. Respondent Brighton shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of $175,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act 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;

(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 Brighton Securities Corp. 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 Thomas P. Smith, Jr., Associate Regional Director, New York Regional Office, Division of Enforcement, Securities and Exchange Commission, 100 Pearl Street, New York, NY 10004.

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.

Vanessa A. Countryman
Secretary