

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-20880

In the Matter of	:	
	:	
	:	PLAN OF DISTRIBUTION
Kahn Brothers Advisors, LLC and	:	
Thomas Kahn,	:	
	:	
Respondents.	:	

I. OVERVIEW

1. The Division of Enforcement has prepared this Plan of Distribution (the “Plan”) to the United States Securities and Exchange Commission (the “Commission”) pursuant to Rule 1101 of the Commission’s Rules on Fair Fund and Disgorgement Plans (the “Commission’s Rules”), 17 C.F.R. § 201.1101. This Plan provides for the distribution of a Fair Fund (the “Fair Fund”) comprised of disgorgement, prejudgment interest, and civil money penalties paid by Kahn Brothers Advisors, LLC (“KIA”), a registered investment adviser, and Thomas Kahn (“Kahn”), its principal owner and president (collectively, the “Respondents”) in the above-captioned matter.¹

2. As described more specifically below, the Plan seeks to compensate investors who were harmed by the Respondents’ conduct described in the Order, namely, Respondents’ violations of the federal securities laws which resulted in excess commissions paid by investors for brokerage services provided by KIA’s affiliated broker-dealer, Kahn Brothers LLC (“KBD”).² According to the Order, KIA and Kahn failed to seek best execution for advisory clients, failed to conduct a best execution review of KBD, and failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Investment Advisers Act of 1940. Based on information obtained by the Commission staff during its investigation and the review and analysis of applicable records, the Commission staff has

¹ See Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(e), 203(f), and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order, Exchange Act Rel. No. 95045 (June 6, 2022) (the “Order”).

² The Plan compensates clients for excess commissions paid due to KBD’s failure to aggregate client transactions. It does not provide recovery to clients for KIA’s failure to disclose material facts related to conflicts arising from KIA’s use of an affiliated broker-dealer to execute client transactions, given the difficulty in measuring the amount that clients may have been harmed.

reasonably concluded that it has all records necessary to calculate each investor's harm. As a result, the Fair Fund is not being distributed according to a claims-made process, so procedures for making and approving claims in accordance with Rule 1101(b)(4) of the Commission's Rules³ are not applicable.

3. As calculated using the methodology detailed in the Plan of Allocation (attached as Exhibit A), investors will be compensated for their losses resulting from excess commissions paid to KBD from March 1, 2015 through March 31, 2020, inclusive (the "Relevant Period"), due to the Respondents' failure to direct KBD to aggregate their advisory clients' transactions.

4. In the view of the Commission staff, this methodology constitutes a fair and reasonable allocation of the Fair Fund.

5. The Commission has custody of the Fair Fund and shall retain control of the assets of the Fair Fund. The Plan has been approved by the Commission, and the Commission retains jurisdiction over its implementation.

II. BACKGROUND

6. On June 6, 2022, the Commission issued the Order instituting and simultaneously settling administrative and cease-and-desist proceedings against the Respondents. In the Order, the Commission found that registered investment adviser KIA and its principal owner and president, Kahn, made misstatements and omitted information in statements to KIA's advisory clients and prospective clients relating to brokerage services provided by KIA's affiliated broker-dealer, KBD. Specifically, the Commission found KIA and Kahn (a) failed to fully and fairly disclose to advisory clients all material facts related to the conflict that arose from KIA's use of an affiliated broker-dealer to execute client transactions; and (b) made misleading statements to clients and prospective clients that KIA would aggregate client transactions to reduce commissions. According to the Order, KIA and Kahn also failed to seek best execution for advisory clients, failed to conduct a best execution review of KBD, and failed to adopt and implement written policies and procedures reasonably designed to prevent violation of the Investment Advisers Act of 1940 and the rules promulgated thereunder. According to KIA's policies and procedures, Kahn was responsible for all aspects of KIA's compliance program and its implementation, as well as the firm's disclosure obligations. The Commission ordered the Respondents to pay \$701,799 in disgorgement, \$146,100 in prejudgment interest, and a \$250,000 civil money penalty, for a total of \$1,097,899, to the Commission. The Commission also created the Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalty paid, along with the disgorgement and interest paid, can be distributed to harmed investors.

7. The Respondents have paid in full. The Fair Fund has been deposited in a Commission-designated account at the United States Department of the Treasury, and any accrued interest will be added to the Fair Fund.

³ 17 C.F.R. § 201.1101(b)(4).

III. DEFINITIONS

As used in this Plan, the following definitions will apply:

8. **“Administrative Costs”** shall mean any administrative costs and expenses, including without limitation tax obligations, the fees and expenses of the Tax Administrator, and investment and banking costs.

9. **“Distribution Payment”** means a payment from the Fair Fund to a Payee in accordance with the terms of this Plan.

10. **“Eligible Claimant”** means a Preliminary Claimant, who is determined to have suffered a Recognized Loss, pursuant to the Plan of Allocation, and who is not an Excluded Party or an Unresponsive Preliminary Claimant.

11. **“Excluded Party”** shall mean: (a) the Respondents, and Respondents’ advisers, agents, nominees, assigns, creditors, heirs, distributees, spouses, parents, children, or controlled entities; (b) the Third-Party, its employees, and those Persons assisting the Third-Party; and (c) any purchaser or assignee of another Person’s right to obtain a recovery from the Fair Fund for value; provided, however, that this provision shall not be construed to exclude those Persons who obtained such a right by gift, inheritance or devise.

12. **“Fair Fund”** means the fund created by the Commission pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, for the benefit of investors harmed by Respondents’ violations described in the Order.

13. **“Final Determination Notice”** means the written notice sent to (a) any Preliminary Claimant who timely submitted a written dispute of his, her, or its calculated Recognized Loss notifying the Preliminary Claimant of the Fund Administrator’s resolution of the dispute; and (b) those Preliminary Claimants who have not responded to the Plan Notice as described in paragraph 35, except for those whose Plan Notice were returned as “undeliverable,” notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant. The Final Determination Notice will constitute the Fund Administrator’s final ruling regarding the status of the claim.

14. **“Net Available Fair Fund”** means the Fair Fund, plus any interest or earnings, less Administrative Costs.

15. **“Payee”** means an Eligible Claimant whose distribution amount is equal to or greater than \$10.00, as calculated in accordance with the Plan of Allocation, who will receive a Distribution Payment.

16. **“Person”** means natural individuals as well as legal entities such as corporations, partnerships, or limited liability companies.

17. **“Plan Notice”** means a written notice to each Preliminary Claimant regarding the

Commission’s approval of the Plan, including, as appropriate: a statement characterizing the distribution; a link to the approved Plan posted on the Commission’s website and instructions for requesting a copy of the Plan; specification of any information needed from the Preliminary Claimant to prevent him, her, or it from being deemed an Unresponsive Preliminary Claimant; his, her, or its preliminary Recognized Loss; a description of the tax information reporting and other related tax matters; the procedure for the distribution as set forth in the Plan; and the name and contact information for the Fund Administrator as a resource for additional information or to contact with questions regarding the distribution.

18. **“Plan of Allocation”** means the methodology used by the Fund Administrator to calculate if a Preliminary Claimant has suffered a Recognized Loss. The Plan of Allocation is attached as Exhibit A.

19. **“Preliminary Claimant”** means a Person, or their lawful successors, identified by the Fund Administrator based on her review and analysis of applicable records obtained by the Commission staff during its investigation, who may have suffered a loss as a result of excess commissions paid to KBD due to the Respondents’ failure to direct KBD to aggregate their advisory clients’ transactions.

20. **“Recognized Loss”** means the amount of loss calculated in accordance with the Plan of Allocation.

21. **“Relevant Period”** is from March 1, 2015 through March 31, 2020, inclusive.

22. **“Unresponsive Preliminary Claimant”** means a Preliminary Claimant whose address the Fund Administrator and/or the Third-Party has not been able to verify and/or who does not timely respond to attempts to obtain information, including any information sought in the Plan Notice. Unresponsive Preliminary Claimants will not be eligible for a distribution under the Plan.

IV. TAX COMPLIANCE

23. On December 1, 2022, the Commission appointed Miller Kaplan Arase LLP as the tax administrator (the “Tax Administrator”) for the Fair Fund to handle the tax obligations of the Fair Fund.⁴ The Tax Administrator will be compensated for reasonable fees and expenses from the Fair Fund in accordance with its 2022-2024 Letter Agreement with the Commission.⁵

24. The Fair Fund constitutes a Qualified Settlement Fund (“QSF”) under Section 468B(g) of the Internal Revenue Code of 1986, as amended (“IRC”), 26 U.S.C. § 468B(g), and related regulations, 26 C.F.R. §§ 1.468B-1 through 1.468B-5. The Tax Administrator is the administrator of such QSF for purposes of Treas. Reg. § 1.468B-2(k)(3)(I) and shall satisfy the tax-related administrative requirements imposed by Treas. Reg. § 1.468B-2, including, but not limited to:

⁴ See Order Appointing Tax Administrator, Exchange Act Rel. No. 96434 (Dec. 1, 2022).

⁵ See Omnibus Order Directing the Engagement of Two Tax Administrators for Appointment on a Case-By-Case Basis in Administrative Proceedings that Establish Distribution Funds, Exchange Act Rel. No. 94845 (May 4, 2022).

- (a) Obtaining a taxpayer identification number;
- (b) Requesting funds necessary for the timely payment of all applicable taxes, the payment of taxes for which the Tax Administrator has received funds, and the filing of applicable returns; and
- (c) Fulfilling any information reporting or withholding requirements imposed on distributions from the Fair Fund.

25. All tax obligations will be paid from the Fair Fund, subject to the review and approval of Commission staff.

V. FUND ADMINISTRATOR

26. Sondra Panahi is the fund administrator for the Fair Fund (“Fund Administrator”). As a Commission employee, the Fund Administrator shall receive no compensation, other than her regular salary as a Commission employee, for her services in administering the Fair Fund. In accordance with Rule 1105(c) of the Commission’s Rules,⁶ no bond is required since the Fund Administrator is a Commission employee.

27. The Fund Administrator will be responsible for administering the Fair Fund in accordance with the Plan. This will include, among other things, taking reasonable steps to obtain accurate mailing information for Preliminary Claimants; disseminating the Plan Notice; preparing accountings; cooperating with the Tax Administrator appointed by the Commission to satisfy any tax liabilities and to ensure compliance with income tax reporting requirements, including but not limited to Foreign Account Tax Compliance Act (FATCA); disbursing the Fair Fund in accordance with this Plan, as ordered by the Commission; and researching and reconciling errors and reissuing payments, when possible. The Fund Administrator will engage a third-party, Analytics LLC (the “Third-Party”), in the amount of \$7,250.00 to perform some of the tasks identified above and administrative tasks associated with implementing the Plan, including, among other things, maintaining an e-mail address with e-mail support, and toll-free number, verifying contact information for Preliminary Claimants, disbursing payments in accordance with the Plan, and researching and reconciling errors and reissuing payments. The Third-Party’s fees and expenses will be paid from the Fair Fund as an Administrative Cost, pursuant to a cost proposal submitted to and approved by the Commission staff.

28. To carry out the purposes of this Plan, the Fund Administrator is authorized to make and implement immaterial changes to the Plan upon agreement of the Commission staff. If a change is deemed to be material by the Commission staff, Commission approval is required prior to implementation by amending the Plan.

29. The Fund Administrator may extend any procedural deadline contained in the Plan for good cause shown, if agreed upon by the Commission staff.

⁶ 17 C.F.R. § 201.1105(c).

VI. PLAN PROCEDURES

Specification of Preliminary Claimants

30. Using information obtained during its investigation, the Commission has identified the Preliminary Claimants. Preliminary Claimants are limited to only those Persons who may have suffered a loss as a result of excess commissions paid to KBD during the Relevant Period due to the Respondents' failure to direct KBD to aggregate their advisory clients' transactions.

Procedures for Locating and Notifying Preliminary Claimants

31. Within sixty (60) days of Commission approval of the Plan, a Plan Notice will be sent to each Preliminary Claimant's last known email address (if known) and/or mailing address.

Undeliverable Mail

32. If any mailing is returned as undeliverable, the Third-Party will make the best practicable efforts to ascertain a Preliminary Claimant's correct address. If another address is obtained, the Plan Notice will be resent to the Preliminary Claimant's new address within thirty (30) days of receipt of the returned mail. If the mailing is returned again, and the Third-Party, despite best practicable efforts, is unable to find a Preliminary Claimant's correct address, the Fund Administrator, in her discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

33. Any Preliminary Claimant who relocates or otherwise changes contact information after receipt of the Plan Notice must promptly communicate any change in address or contact information to the Fund Administrator or Third-Party.

Procedures to Request Plan Notice

34. Any Person who does not receive a Plan Notice, as described in paragraph 31, but who is aware of this Plan (e.g., through other Preliminary Claimants or on www.sec.gov) and believes they should be included as a Preliminary Claimant should contact the Fund Administrator within ninety (90) days from the approval of the Plan to establish that they should be considered a Preliminary Claimant. Such Person should include with that communication, documentation sufficient to support their claim that they should be considered a Preliminary Claimant, as well as contact information (physical address, telephone number, and email address, if available) for responsive communications. If the Fund Administrator determines that the Person should have received a Plan Notice, a Plan Notice will be sent to the Person within thirty (30) days of receiving the Person's documentation.

Failure to Respond to Plan Notice

35. If a Preliminary Claimant is requested to respond and fails to respond within thirty (30) days from the initial mailing of the Plan Notice, the Third-Party will make no fewer

than two (2) attempts to contact the Preliminary Claimant by telephone or email. The second attempt will in no event take place more than one hundred thirty-five (135) days from the Commission's approval of the Plan. If a Preliminary Claimant fails to respond to the Third-Party's contact attempts as described in this paragraph, the Fund Administrator, in her discretion, may deem such Preliminary Claimant an Unresponsive Preliminary Claimant.

Dispute Process

36. Disputes will be limited to the calculation of Recognized Loss. Within one hundred fifty (150) days of the Commission's approval of the Plan, the Fund Administrator must receive a written communication detailing any dispute along with any supporting documentation. The Fund Administrator will investigate the dispute, and such investigation will include a review of the written dispute as well as any supporting documentation.

Final Determination Notices

37. Within one hundred eighty (180) days of the Commission's approval of the Plan, a Final Determination Notice will be sent to (a) any Preliminary Claimant who timely submitted a written dispute as described in paragraph 36 above, notifying the Preliminary Claimant of the Fund Administrator's resolution of the dispute; and (b) those Preliminary Claimants who have not responded to the Plan Notice, as described in paragraph 35 above, except for those whose Plan Notice were returned as undeliverable, notifying the Preliminary Claimant that he, she, or it has been deemed an Unresponsive Preliminary Claimant.

Distribution Methodology

38. The Fund Administrator will calculate each Preliminary Claimant's Recognized Loss in accordance with the Plan of Allocation. All Preliminary Claimants who are determined to have a Recognized Loss, and who are not deemed an Excluded Party or an Unresponsive Preliminary Claimant will be deemed an Eligible Claimant.

39. No Distribution Payments will be made for less than \$10.00. If an Eligible Claimant's distribution amount calculates to less than \$10.00, in accordance with the Plan of Allocation, that Eligible Claimant will be deemed ineligible to receive a Distribution Payment and his, her, or its distribution amount will be reallocated on a *pro rata* basis to Eligible Claimants whose distribution amounts are greater than or equal to \$10.00. Any Eligible Claimant whose distribution amount is equal to or greater than \$10.00, as calculated in accordance with the Plan of Allocation, will be deemed a Payee and receive a Distribution Payment.

Establishment of a Reserve

40. Before determining the amount of funds available for distribution and calculating each Payee's Distribution Payment, the Fund Administrator, in conjunction with the Tax Administrator, will establish a reserve to pay Administrative Costs and to accommodate any unexpected expenditures (the "Reserve").

41. After all Distribution Payments are made and Administrative Costs paid, any remaining amounts in the Reserve will become part of the Residual described in paragraph 55 below.

The Escrow Account

42. Prior to the disbursement of funds from the Net Available Fair Fund, the Third-Party will establish an escrow account at a United States commercial bank that is a well-capitalized financial institution as defined by the Federal Reserve Act, Subpart D, 12 C.F.R. § 208.43, and that is not unacceptable to the Commission staff (the “Bank”), pursuant to an escrow agreement provided by the Commission staff.

Preparation of the Payment File

43. Following the issuance of all Final Determination Notices, the Fund Administrator will compile and send to the Commission staff the Payee information, including the name, address, calculated Recognized Loss, Distribution Payment, and the amount to be withheld from the Distribution Payment for taxes, if applicable (the “Payee List”). The Payee List will also include the total amount to be disbursed to the Bank, along with the total amount to be disbursed to the Tax Administrator and transferred to the U.S. Treasury as tax withholdings.

Distribution of the Fair Fund

44. Pursuant to Rule 1101(b)(6) of the Commission’s Rules,⁷ the Commission staff will obtain an order from the Commission to disburse funds from the Net Available Fair Fund to the Bank in accordance with the Payee List for distribution by the Third-Party in accordance with the Plan. For any electronic payment, the exact amount necessary to make a payment shall be transferred directly to the Payee’s bank account in accordance with written instructions provided to the Bank by the Third-Party.

45. All checks will bear a stale date of one hundred eighty (180) days from the date of issuance. Checks that are not negotiated by the stale date will be voided, and the Bank will be instructed to stop payment on those checks. A Payee’s claim will be extinguished if he, she, or it fails to negotiate his, her or its check by the stale date, and the funds will remain in the Fair Fund, except as provided in paragraph 49.

46. All Distribution Payments will be preceded or accompanied by a communication that includes, as appropriate: (a) a statement characterizing the distribution; (b) a statement that the tax treatment of the distribution is the responsibility of each Payee and that the Payee should consult his, her or its tax advisor for advice regarding the tax treatment of the distribution; however, any backup withholding required under IRC § 3406(a) and the regulations promulgated thereunder, or withholding required with respect to nonresident aliens (“NRAs”) under Chapter 3 of the IRC, or FATCA-subject Payees under Chapter 4 of the IRC, will be withheld as required from the Distribution Payment and remitted to the Internal Revenue Service on the Payee’s

⁷ 17 C.F.R. § 201.1101(b)(6).

behalf; (c) a statement that checks will be void and cannot be reissued after one hundred eighty (180) days from the date the original check was issued; and (d) contact information for the Fund Administrator for questions regarding the Distribution Payment. The letter or other mailings to Payees characterizing a Distribution Payment will be prepared by the Tax Administrator and provided to the Commission staff for review and approval.

47. All Distribution Payments, either on their face or in the accompanying mailing, will clearly indicate that the money is being distributed from the Fair Fund established by the Commission to compensate investors for harm as a result of securities law violations.

Post Distribution; Handling of Returned or Uncashed Checks; and Reissues

48. The Third-Party shall use its best efforts to make use of commercially available resources and other reasonably appropriate means to locate all Payees whose checks are returned to the Third-Party as “undeliverable.” If new address information becomes available, the Third-Party will repackage the distribution check and send it to the new address. If new address information is not available after a diligent search (and in no event no later than one hundred fifty (150) days from the date of issuance of the original check) or if the distribution check is returned again, the check shall be voided and the Third-Party shall instruct the issuing financial institution to stop payment on such check. If the Third-Party is unable to find a Payee’s correct address, the Fund Administrator, in her discretion, may remove such Payee from the distribution and the allocated Distribution Payment will remain in the Fair Fund for distribution, if feasible, to the remaining Payees.

49. The Fund Administrator will direct the Third-Party to reissue checks or electronic payments to Payees upon the receipt of a valid, written request from the Payee prior to the initial stale date. In cases where a Payee is unable to endorse a Distribution Payment check as written (e.g., name changes, IRA custodian changes, or recipient is deceased) and the Payee or a lawful representative requests the reissuance of a Distribution Payment check in a different name, the Fund Administrator will request, and must receive, documentation to support the requested change. The Fund Administrator will review the documentation to determine the authenticity and propriety of the change request. If, in the discretion of the Fund Administrator, such change request is properly documented, the Fund Administrator will direct the Third-Party to issue an appropriately redrawn Distribution Payment to the requesting party. Reissued checks will be void at the later of one hundred eighty (180) days from the date of issuance of the original check or thirty (30) days from the reissuance, and in no event will a check be reissued after one hundred eighty (180) days from the date of the original issuance without the approval of Commission staff.

50. The Third-Party will work with the Bank and maintain information about uncashed checks and any returned items due to non-delivery, insufficient addresses, and/or other deficiencies. The Third-Party is responsible for researching and reconciling errors and reissuing payments when possible. The Third-Party is also responsible for accounting for all payments. The amount of all uncashed and undelivered payments will continue to be held in the Fair Fund.

51. The Third-Party will make and document its best efforts to contact Payees to follow-up on the status of uncashed distribution checks over \$100 (other than those returned as “undeliverable”) and take appropriate action to follow-up on the status of uncashed checks at the request of Commission staff. The Fund Administrator may direct the Third-Party to reissue such checks, subject to the time limits detailed herein.

52. At the discretion of the Fund Administrator, certain costs that were not factored into the Reserve, such as bank fees for the return of a payment, may reduce the Payee’s Distribution Payment. In such situations, the Fund Administrator will immediately notify the Tax Administrator of the reduction in the Distribution Payment.

Receipt of Additional Funds

53. Should any additional funds be received pursuant to Commission or Court order, agreement, or otherwise, prior to the Commission’s termination of the Fair Fund, such funds will be added to the Fair Fund and distributed, if feasible, in accordance with the Plan, pursuant to the Commission’s Rules.

Disposition of Undistributed Funds

54. If funds remain following the initial distribution, the Fund Administrator, in consultation with the Commission staff, may seek subsequent distribution(s) of any available remaining funds, pursuant to the Commission’s Rules. All subsequent distributions shall be made in a manner that is consistent with this Plan.

55. A residual will be established for any amounts remaining after the final disbursement to Payees from the Fair Fund and the payment of all Administrative Costs (the “Residual”). The Residual may include funds from, among other things, amounts remaining in the Reserve, distribution checks that have not been cashed, checks or electronic payments that were not delivered or were returned to the Commission, and tax refunds due to the Fair Fund’s overpayment of taxes or for waiver of IRS penalties.

56. Once the Fund Administrator, in consultation with the Commission staff, deems further distribution of the Fair Fund to investors infeasible, the Fund Administrator will direct the Third-Party to have any uncashed Distribution Payments voided and to return any remaining funds disbursed to the Bank in paragraph 44 above to the Commission to become part of the Residual.

57. All funds remaining in the Residual that are infeasible to distribute to investors will be transferred to the U.S. Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 (the “Exchange Act”), after the final accounting is approved by the Commission. Returning such money to the Respondents would be inconsistent with the equitable principle that no Person should profit from their wrongdoing. Therefore, in these circumstances distributing disgorged funds to the U.S. Treasury is the most equitable alternative.

Administrative Costs

58. All Administrative Costs will be paid from the Fair Fund in accordance with the Commission's Rules.

Accountings

59. When all funds have been disbursed, except for the Residual described in paragraph 55, the Third-Party will submit to the Fund Administrator a final report (the "Third-Party Final Report") that includes an accounting of all funds disbursed to the Bank. The Third-Party Final Report will include, at a minimum, the number and total amount of payments sent to Payees, and the number and total amount of payments successfully disbursed (i.e., cashed or electronically transferred) to Payees, and the amount of funds returned to the Commission, pursuant to paragraph 56 above. The Third-Party Final Report must be endorsed by a declaration executed by the Third-Party under penalty of perjury under the laws of the United States.

60. Upon receipt of the Third-Party's Final Report described above, the Fund Administrator will submit a final accounting pursuant to Rule 1105(f) of the Commission's Rules, 17 C.F.R. § 201.1105(f), for the Commission's approval prior to termination of the Fair Fund and discharge of the Fund Administrator. Since the Fund Administrator is a Commission employee, no interim accountings will be made.

Termination of the Fair Fund

61. The Fair Fund will be eligible for termination and the Fund Administrator will be eligible for discharge after all of the following have occurred (a) a final accounting, in a standard accounting format provided by the Commission staff, has been submitted by the Fund Administrator and approved by the Commission; (b) all Administrative Costs have been paid; and (c) any amount remaining in the Fair Fund has been returned to the Commission for transfer to the U.S. Treasury. Once the Commission has approved the final accounting, the Commission staff will seek an order from the Commission authorizing: (a) the transfer of the Residual that is infeasible to return to investors, and any amounts returned to the Fair Fund in the future that is infeasible to return to investors, to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act; (b) discharge of the Fund Administrator; and (c) termination of the Fair Fund.

Exhibit A

PLAN OF ALLOCATION

This Plan of Allocation¹ is designed to compensate investors based on their losses resulting from excess commissions paid to Kahn Brothers LLC (“KBD”) from March 1, 2015 through March 31, 2020, inclusive (the “Relevant Period”), due to the Respondents’ failure to direct KBD to aggregate their advisory clients’ transactions. Investors who did not pay excessive commissions to KBD during the Relevant Period and did not suffer any losses as a result of the Respondents’ violative conduct are ineligible to recover under this Plan. Based upon records obtained by the Commission during its investigation, the Fund Administrator has identified those investors, or their lawful successors, who may have paid excess commissions and suffered losses as a result of the Respondents’ failure to direct KBD to aggregate their advisory clients’ transactions (the “Preliminary Claimants”).

The Fund Administrator will calculate each Preliminary Claimant’s loss (“Recognized Loss”) as their commissions and fees paid in excess of what they would have paid had KBD aggregated the affected clients’ transactions, as calculated by Commission staff.

To avoid payment of a windfall, the Recognized Loss will be reduced by the amount of any compensation for the loss that resulted from the conduct described in the Order that was received from another source (e.g., class action settlement), to the extent known by the Fund Administrator.

If the Recognized Loss calculates to a negative number, reflecting a gain, the Recognized Loss will be \$0.00.

Any Preliminary Claimant who suffered a Recognized Loss, pursuant to this Plan of Allocation, and who is not an Excluded Party or an Unresponsive Preliminary Claimant, will be deemed an Eligible Claimant.

Additional Provisions

Allocation of Funds: The Net Available Fair Fund exceeds the sum of Recognized Losses of all Eligible Claimants. Each Eligible Claimant’s distribution amount will equal his, her, or its Recognized Loss, plus “Reasonable Interest.”

Pro Rata Percentage: A *Pro Rata* Percentage computation is intended to measure Eligible Claimants’ Recognized Losses against one another. An Eligible Claimant’s *Pro Rata* Percentage will be calculated as the ratio of his, her or its Recognized Loss to the sum of Recognized Losses of all Eligible Claimants.

Reasonable Interest: The Fund Administrator, in consultation with the Commission staff, may include interest in the distribution amount to compensate for the time value of money. Reasonable Interest will be calculated using the Short-term Applicable Federal Rate plus three

¹ All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Plan.

percent (3%), compounded quarterly from the end of the Relevant Period through the approximate date of the disbursement of the funds. If there are insufficient funds to pay Reasonable Interest in full to all Eligible Claimants, Reasonable Interest will awarded on a *pro-rata* basis from the excess funds.

Minimum Distribution Amount: The Minimum Distribution Amount will be \$10.00. An Eligible Claimant whose distribution amount is less than the Minimum Distribution Amount will be deemed ineligible and his, her or its distribution amount may be reallocated on a *pro-rata* basis to Eligible Claimants whose distribution amounts are greater than or equal to the Minimum Distribution Amount.

Payee: An Eligible Claimant whose distribution amount equals or exceeds the Minimum Distribution Amount will be deemed a Payee.

Distribution Payment: Each Payee will receive a Distribution Payment equal to his, her, or its calculated distribution amount. In no event will a Payee receive from the Fair Fund more than his, her, or its Recognized Loss plus Reasonable Interest, if applicable.