

Memorandum

To: Board of Trustees, Fresno County Employees' Retirement Association
From: Mike Kamell, CFA, CAIA, Consultant
Date: July 23, 2018
RE: Oaktree SEC Fine

Oaktree Capital Management, a private credit manager, was fined \$100,000 by the SEC in response to the determination that three campaign contributions had been made by Oaktree employees which violated Oaktree's policies and SEC requirements. **Verus has reviewed the circumstances surrounding this settlement and does not have any concerns.**

Oaktree Capital Management is the general partner of Oaktree Opportunities Fund IX, L.P. a private credit fund for which FCERA made a \$15 million commitment in 2012. The current market value of FCERA's interest in the Fund is approximately \$12 million.

SEC rules (and Oaktree's policies at the time) state that, in order to avoid "pay to play" issues, employees of registered investment advisors cannot contribute more than \$150 to a candidate for state or local public office (If the individual resides in the relevant jurisdiction and has the ability to vote for the candidate, the maximum contribution amount is \$350). In three instances between 2014 and 2016, three employees made campaign contributions totaling \$2,050. These contributions were not made in accordance with the SEC Rules and were the reason for the \$100,000 fine.

Campaign contribution limits are in place to avoid the possibility that a government official could be unduly influenced to direct public fund assets toward certain managers or funds in exchange for financial consideration. While from a headline perspective, this issue certainly raises concern, the underlying facts and circumstances seem to suggest these contributions were not made with malicious intent, and its simply an instance of several individuals not paying enough attention to the policies in place. Oaktree has taken steps to remedy the situation by simplifying their procedures and re-educating employees on the policy.

Please refer to the enclosed for more details on the SEC's findings as well as Oaktree's response. If you have any questions, please feel free to reach out to me at (310)-297-1777.

Memo to: Oaktree Clients

From: Howard Marks

Re: SEC Settlement

I am writing to alert you that Oaktree has agreed to pay a fine of \$100,000 to the Securities and Exchange Commission to reflect the fact that three of our employees made contributions to three candidates for state and local public office that violated Oaktree's policies by a total of \$2,050 and resulted in violations of SEC rules. We expect the administrative order memorializing the settlement of this matter to be issued publicly soon.

Although none of our employees intended anything improper, they should have been more attentive to our requirements and the SEC rules. We have enhanced our compliance procedures regarding political activities to help prevent a recurrence. In fact, we now prohibit all contributions to candidates for or current holders of state and local office, believing that a simple prohibition will be easier for our 900+ employees to understand and observe.

For those interested in the underlying facts, we discovered these three violations during an internal review after the SEC asked us for information in 2016 about our employees' political contributions as part of an industry-wide sweep.

- One of the violations, which we believe triggered the SEC's inquiry to us, was a \$1,000 contribution in 2014 from one of our employees to a candidate for Governor of Rhode Island for which the employee failed to request preclearance as required under our rules at the time (and for which preclearance would have been granted, but only up to \$150). The candidate's campaign staff recognized that the contribution was impermissible and promptly returned it, but our employee failed to make us aware that the contribution had been returned.
- Another violation in 2014 involved an employee's contribution of \$500 to a candidate for State Superintendent of Public Instruction in California. The employee failed to seek preclearance of the contribution, which would have been permitted, but only up to \$350 (more than the \$150 above because in this case the employee was eligible to vote for the candidate).
- The third violation, which occurred in 2016, involved a \$1,400 contribution to a candidate for Mayor of Los Angeles. The employee properly obtained preclearance of a contribution, but overlooked the fact that the approval had been limited to just \$350. Instead, the employee contributed the full \$1,400 for which approval had been sought.

These contributions, which we reported to the SEC following the review we conducted in response to their inquiry, resulted in violations of Oaktree policy and SEC rules. (We understand that the SEC was already aware of the first violation when it initially requested information from us but chose not to disclose it to us, pending our own review.)

Though one might be tempted to dismiss these violations as almost-inevitable minor missteps (given the number of our employees and the broad panoply of regulations that govern our conduct), we recognize that nothing is more important than conducting ourselves with the highest integrity, and that every little thing counts. Only by observing the details can we be sure that we'll never step over the line.

Thus we have retrained the employees involved, overhauled and simplified our procedures, and implemented new training and surveillance tools. While this is unlikely to be our last mistake, you can be sure that all of us at Oaktree recognize the trust you place with us and strive every day to be worthy of that confidence.

As always, I hope you won't hesitate to contact us if you have any questions or comments regarding this matter.

July 9, 2018

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 4960 / July 10, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18585

In the Matter of

**OAKTREE CAPITAL MANAGEMENT,
L.P.,**

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 Oaktree Capital Management, L.P. (“Oaktree Capital” 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 finds¹ that:

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.

Summary

These proceedings involve violations of the Commission's "pay-to-play" rule for investment advisers by Respondent Oaktree Capital, an investment adviser. Rule 206(4)-5, promulgated under Section 206(4) of the Advisers Act, is a prophylactic rule designed to address pay-to-play abuses involving campaign contributions made by certain investment advisers or their covered associates to government officials who are in a position to influence the selection of investment advisers to manage government client assets, including public pension fund assets. Among other things, Rule 206(4)-5 prohibits certain investment advisers from providing investment advisory services for compensation to a government client (or to an investment vehicle in which a government entity invests) for two years after the adviser or certain of its executives or employees (known as covered associates) makes a campaign contribution to certain elected officials or candidates who can influence the selection of certain investment advisers.

Respondent

1. Oaktree Capital Management, L.P. ("Oaktree Capital") is a limited partnership headquartered in Los Angeles, California. Oaktree Capital is registered with the Commission as an investment adviser. In its Form ADV dated March 29, 2018, Oaktree Capital reported regulatory assets under management of approximately \$110 billion.

Background

2. Between September 2014 and April 2016, three covered associates of Respondent made campaign contributions to candidates for elected office in California and Rhode Island, which offices had influence over selecting investment advisers for public pension plans in those states. Within two years after these contributions, Respondent provided advisory services for compensation to the public pension plans. By providing those advisory services for compensation within two years after the contributions, Respondent violated Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder.

3. In March 2007, the California State Teachers' Retirement System ("CalSTRS"), a public pension plan in California, committed to invest, and subsequently invested, \$300 million in Oaktree Opportunities Fund VIIb, L.P., a fund advised by Respondent. In October 2011, the Employees' Retirement System of Rhode Island ("ERS"), through the Rhode Island Investment Commission, committed to invest, and subsequently invested, \$20 million in Oaktree European Principal Fund III, L.P., a fund advised by Respondent. In 2009, the Water and Power Employees' Retirement Plan of the City of Los Angeles ("WPERP"), a public pension plan in Los Angeles, California, committed to invest, and subsequently invested, \$18.5 million in Oaktree Principal Fund V, L.P., a fund advised by Respondent. Between 1999 and 2015, the Los Angeles City Employees' Retirement System ("LACERS"), a public pension plan in Los Angeles, California, committed to invest, and subsequently invested, \$72 million in seven funds advised by Respondent. Between September 1999 and February 2015, the Los Angeles Fire and Police Pension System ("LAFPP"), a public pension plan in Los Angeles, California, committed to invest, and subsequently invested, \$120 million in nine funds advised by Respondent. During

all relevant times, CalSTRS, ERS, WPERP, LACERS and LAFPP remained invested in their respective funds (the “Funds”). The Funds were closed-end funds and investors were generally prohibited from withdrawing their money for the life of the funds.

4. On September 9, 2014, a covered associate² of Respondent made a \$500 campaign contribution to a candidate for California State Superintendent of Public Instruction.³ On September 15, 2014, a covered associate of Respondent made a \$1,000 campaign contribution to the Treasurer of Rhode Island, who was also a candidate for Governor of Rhode Island. After the September 15, 2014 contribution was made, it was returned to the covered associate who made the contribution. On April 21, 2016, a covered associate made a \$1,400 campaign contribution to a candidate for Mayor of Los Angeles.⁴ After the April 21, 2016 contribution was made, the covered associate requested that the contribution be returned.

5. The office of California State Superintendent of Public Instruction had the ability to influence the selection of investment advisers for CalSTRS. Specifically, the California State Superintendent of Public Instruction is an *ex officio* member of the board of CalSTRS. The CalSTRS board has influence over investments by CalSTRS and the selection of investment advisers and pooled investment vehicles for the pension fund. The offices of Treasurer and Governor of Rhode Island both had the ability to influence the selection of investment advisers for ERS, through the Rhode Island Investment Commission. Specifically, the Rhode Island Investment Commission selects investment advisers and pooled investment vehicles for ERS, the pension plan. The Treasurer of Rhode Island is on the board of the Rhode Island Investment Commission and the Governor of Rhode Island appoints three members of the board of the Rhode Island Investment Commission. The office of Mayor of Los Angeles had the ability to influence the selection of investment advisers for WPERP, LACERS and LAFPP. Specifically, the Mayor of Los Angeles appoints at least one member of the boards of WPERP, LACERS and LAFPP. The boards of WPERP, LACERS and LAFPP have influence over investments by WPERP, LACERS and LAFPP (and the selection of investment advisers and pooled investment vehicles for these pension funds or plans).

6. During the two years after the contributions, Respondent continued to provide investment advisory services for compensation to the Funds.

² Covered associates are defined to include: (i) any general partner, managing member or executive officer, or other individual with a similar status or function; (ii) any employee who solicits a government entity for the investment adviser and any person who supervises, directly or indirectly, such employee; and (iii) any political action committee controlled by the investment adviser or by any of its covered associates. See Rule 206(4)-5(f)(2).

³ Rule 206(4)-5 has a *de minimis* exception, which permits covered associates to make aggregate contributions without triggering the two-year time out of up to \$350, per election, to an elected official or candidate for whom the covered associate is entitled to vote, and up to \$150, per election, to an elected official or candidate for whom the covered associate is not entitled to vote. See Rule 206(4)-5(b)(1).

⁴ Rule 206(4)-5 applies to contributions to a covered candidate even if the candidate does not win the election. See Rule 206(4)-5(f)(6).

7. Advisers Act Rule 206(4)-5(a)(1) prohibits any investment adviser registered with the Commission, investment adviser required to be registered with the Commission, foreign private adviser, or exempt reporting adviser from providing investment advisory services for compensation to a government entity⁵ within two years after a contribution to an official⁶ of a government entity made by the investment adviser or any covered associate of the investment adviser. Advisers Act Rule 206(4)-5 also applies to investment advisers to a covered investment pool in which a government entity invests or is solicited to invest as though the adviser were providing or seeking to provide investment advisory services directly to the government entity.⁷ Advisers Act Rule 206(4)-5 does not require a showing of *quid pro quo* or actual intent to influence an elected official or candidate.

8. As public pension plans or funds, CalSTRS, ERS, WPERP, LACERS and LAFPP were government entities as defined in Advisers Act Rule 206(4)-5(f)(5). The contributors were covered associates of Respondent as defined in Advisers Act Rule 206(4)-5(f)(2). The individuals who received the contributions were officials as defined in Advisers Act Rule 206(4)-5(f)(6) of government entities because the offices they were associated with or sought to become associated with had authority either to influence the hiring of investment advisers by the government entity or to appoint people who could influence the hiring of investment advisers by the government entity. The Funds were covered investment pools as defined in Advisers Act Rule 206(4)-5(f)(3) because they would be an investment company under Section 3(a) of the Investment Company Act of 1940 but for the exclusion from the definition of investment company provided by Section 3(c)(7) of the Investment Company Act.

9. Under Advisers Act Rule 206(4)-5, the contributions triggered a two-year “time-out” on Respondent providing advisory services for compensation to CalSTRS, ERS, WPERP, LACERS and LAFPP. During the two years after the contributions, Respondent continued to provide advisory services for compensation to the Funds and received advisory fees attributable to the investments of CalSTRS, ERS, WPERP, LACERS and LAFPP in their respective Funds.

⁵ See Rule 206(4)-5(f)(5).

⁶ “Official” includes any person who, at the time of the relevant contribution, was an incumbent, candidate or successful candidate for elective office of a government entity if the office is directly or indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity or has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the hiring of an investment adviser by a government entity. See Rule 206(4)-5(f)(6).

⁷ See Rule 206(4)-5(c). A “covered investment pool” is defined as (i) an investment company registered under the Investment Company Act of 1940 (“Investment Company Act”) that is an investment option of a plan or program of a government entity; or (ii) any company that would be an investment company under Section 3(a) of the Investment Company Act, but for the exclusion provided from that definition by either Section 3(c)(1), Section 3(c)(7) or Section 3(c)(11) of that Act. See Rule 206(4)-5(f)(3). Rule 206(4)-5 applies to investment advisers even if the government entity was already invested in the covered investment pool at the time of the contribution.

10. As a result of the conduct described above, Respondent Oaktree Capital willfully⁸ violated Section 206(4) of the Advisers Act and Rule 206(4)-5 thereunder, which makes it unlawful for any investment adviser registered (or required to be registered) with the Commission, or unregistered in reliance on the exemption available under Section 203(b)(3) of the Advisers Act, or that is an exempt reporting adviser, to provide investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser.

IV.

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

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

A. Respondent Oaktree Capital 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)-5 thereunder.

B. Respondent Oaktree Capital is censured.

C. Respondent Oaktree Capital shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$100,000 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:

⁸ A willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” Id. (quoting Gearhart & Otis, Inc. v. SEC, 348 F.2d 798, 803 (D.C. Cir. 1965)).

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 Oaktree Capital Management, L.P. as the 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 LeeAnn Ghazil Gaunt, Chief, Public Finance Abuse Unit, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 24th Floor, Boston, MA 02110.

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

By the Commission.

Brent J. Fields
Secretary