

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

In the Matter of

the Registration Statement of

INFEED MEDICA CORP.
Moshav Bet Meir
DN Harei Yehuda
Israel 90865

INITIAL DECISION OF DEFAULT

March 23, 2017

APPEARANCE: Daniel H. Rubenstein, C. Joshua Felker, and Patrick R. Costello
for the Division of Enforcement, Securities and Exchange Commission

BEFORE: James E. Grimes, Administrative Law Judge

SUMMARY

This initial decision suspends the effectiveness of the Form S-1 registration statement filed by Infeed Medica Corp., on July 22, 2014, and the amendments to it filed on August 28 and September 23, 2014, and February 23 and March 26, 2015.

BACKGROUND

On January 25, 2017, the Securities and Exchange Commission issued an order fixing the time and place of public hearing and instituting proceedings pursuant to Section 8(d) of the Securities Act of 1933 (OIP). The OIP alleges that Infeed's registration statement contains untrue statements of material fact and omits material facts necessary to make representations in the registration statement not misleading. OIP at 2. The OIP directed that a hearing take place on February 21, 2017. *Id.*

The Division of Enforcement submitted a declaration of service on January 30, 2017, stating that Infeed was served with the OIP through its registered agent earlier on that day. Accordingly, its answer was due by February 9, 2017. *See The Registration Statement of Infeed Medica Corp.*, Admin. Proc. Rulings Release No. 4575, 2017 SEC LEXIS 326 (ALJ Jan. 31, 2017). To date, Infeed has not filed an answer. I rescheduled the hearing to February 13, 2017, to comply with the

requirement in Section 8(d) that the hearing occur within fifteen days of service of the OIP. *Id.*; *see* 15 U.S.C. § 77h(d).

On February 10, 2017, the Division filed a motion and memorandum of law supporting default against Respondent, with Exhibits A through S. Noteworthy exhibits include: a compilation of Infeed's Form S-1 and its four amendments, certified by a custodian of records for the Commission (Exs. B-1 through B-5); a term sheet agreement between Julius Klein and Asher Z. Zwebner detailing how they planned to share the profits from Infeed's initial public offering (Ex. E); an email conversation between Zwebner and an individual at VStock Transfer, LLC, with a copy of the agreement for VStock to serve as Infeed's transfer agent that was referenced in the emails (Ex. F); an email conversation between Zwebner and VStock concerning the issuance of Infeed stock certificates (Ex. H); an email from Zwebner to Alan Weinberg of Weinberg & Baer LLC, asking Weinberg to audit Infeed's financial statements (Ex. I); an email chain in which Zwebner asks Weinberg for financial statements from Infeed so that Zwebner could complete its Form S-1 (Ex. J); email conversations between Zwebner and VStock, Weinberg, and an attorney named Harold Gewerter concerning compensation for services performed related to Infeed (Exs. M-O); an email chain in which David Schechter,¹ Infeed's new director, forwarded the Division of Corporation Finance's comment letter concerning Infeed's Form S-1 to Zwebner (Ex. R).

Also on February 10, 2017, after Infeed failed to timely file an answer, I issued an order warning Infeed that if it failed to attend the hearing or otherwise defend the proceeding, it could be found in default and its Form S-1 registration statement could be subject to a stop order. *See The Registration Statement of Infeed Medica Corp.*, Admin. Proc. Rulings Release No. 4597, 2017 SEC LEXIS 435. The hearing was held at Commission Headquarters in Washington, DC, on February 13, 2017. Infeed failed to appear, and the Division stated on the record that it had not had any communications with Respondent. Tr. 4. I noted that several of the documents the Division included in its Exhibits E through S were not self-authenticating, and asked the Division to provide a declaration explaining what the documents represented and how it obtained them. *See* Tr. 7-10. I issued a post-hearing order to that effect. *The Registration Statement of Infeed Medica Corp.*, Admin. Proc. Rulings Release No. 4604, 2017 SEC LEXIS 444 (ALJ Feb. 13, 2017). Thereafter, the Division submitted a declaration on February 23, 2017, that detailed the contents of each exhibit and explained how it obtained the documents (Rubenstein Decl.), sufficiently authenticating the exhibits in question.

FINDINGS OF FACT

Respondent is in default for failing to file an answer, appear at the hearing, or otherwise defend the proceeding. *See* OIP at 2; 17 C.F.R. §§ 201.155(a)(1)-(2), .220(f), .310. As

¹ There are variations in the spelling of David Schechter's name throughout the Division's exhibits, but they all refer to the same person.

authorized by Rule 155(a), I find the allegations in the OIP to be true. In addition, I have considered the Division's exhibits.²

Infeed is a Delaware corporation with its principal executive offices located in Moshav Bet Meir, DN Harei Yehuda, Israel. OIP at 1; Ex. B-5, at 3; Ex. C. As of December 6, 2016, it was delinquent in paying its corporate taxes. OIP at 1; Ex. C. Infeed initially filed a Form S-1 registration statement on July 22, 2014, seeking to register the offer and sale of ten million common shares. Ex. B-1 at 3. It amended its registration statement on August 28 and September 23, 2014, and on February 23 and March 26, 2015. *See generally* Exs. B-2–B-5. In its initial registration statement, Infeed stated that Julius Klein and Beth Langsam were its sole officers and directors. *See, e.g.*, Ex. B-1 at 26. In its February 23, 2015, amendment, Infeed stated that Klein and Langsam had resigned and been replaced by a sole officer and director, David Schechter. Ex. B-4 at 26.

Neither Infeed's initial registration statement nor any of the four subsequent amendments, however, disclose the role of Asher Z. Zwebner in creating and managing the company. Through omissions and affirmative misstatements regarding Zwebner's ownership and control of Infeed, the company's disclosures are misleading and false in at least three ways.

Undisclosed Control Person

The registration statement, in all of its iterations, misrepresents who controlled and promoted the company. It falsely states that Infeed's directors and officers—first Klein and Langsam, and then Schechter—had “effective control over all decisions regarding both policy and operations of our [c]ompany with no oversight from other management.” *E.g.*, Ex. B-1 at 9; Ex. B-4 at 9; *see* OIP at 2. In reality, the company was controlled and promoted by an undisclosed person, Zwebner. *See* OIP at 2; Exs. E-F, H-S.

Zwebner's documented interest in the company dates back to before May 20, 2014, when he and Klein signed an investor term sheet. Ex. E. At that point, Zwebner had already provided \$40,000 in working capital; Klein agreed to fund up to \$20,000 in additional capital, and Zwebner agreed to supply whatever additional money was necessary. *Id.* If and when the company was sold following a public offering, Zwebner would receive eighty percent of the profits, as well as all additional proceeds of a sale where the sales price exceeded \$250,000. *Id.*

After securing his interest in the company, Zwebner began preparations for the contemplated initial public offering. On May 22, 2014, Zwebner mailed VStock Transfer Corp., LLC, a “Transfer Agent and Registrar Agreement” to retain VStock as the transfer agent for Infeed. *See* Ex. F. The form appears to be signed by Klein, although it requests that reports of

² I take official notice of Exhibit B, Infeed's Form S-1 and its amendments, as it is a set of documents in the public official records of the Commission. *See* 17 C.F.R. § 201.323. The other exhibits are supported by a declaration submitted by the Division. *See* Rubenstein Decl.

transfers be sent to Zwebner. *Id.*, Transfer Agent and Registrar Agreement at 11, 13.³ Shortly thereafter, Zwebner requested that VStock send to his own home address the two stock certificates indicating the shares issued to Klein and Langsam. Ex. H. When David Schechter became the director of Infeed in early 2015, Zwebner also had Schechter's stock certificate sent to his own address. *See* Ex. Q (email from Zwebner to VStock and FedEx label from VStock to Zwebner).

On May 21, 2014, Zwebner engaged Alan Weinberg of Weinberg & Baer LLC to audit Infeed's financial statements. Ex. I. In a July 3, 2014, email to Weinberg, Zwebner indicated that he needed Infeed's financial statements soon because he was completing Infeed's Form S-1. Ex. J. In January 2015, Zwebner communicated with VStock, Weinberg, and attorney Harold Gewerter regarding their compensation for services to Infeed. Exs. M-O. And in March 2015, Zwebner was involved in responding to a comment letter from the Commission's Division of Corporation Finance concerning Infeed's registration statement that had been sent initially to Schechter. Exs. R-S.

Ownership of Common Stock

The registration statement initially stated that Klein and Langsam "own[ed] 100% of [Infeed's] outstanding common stock." Ex. B-1 at 10; *see id.* at 29-30. The registration statement was later amended to reflect that Schechter also owned common stock. Ex. B-5 at 10. These statements are materially misleading, because the term sheet between Klein and Zwebner establishes that Zwebner had a majority financial interest in the company. *See* OIP at 2; Ex. E.

Provision of Capital

The registration statement states that "[d]irectors who are also stockholders of the company" loaned it \$41,574. *See, e.g.*, Ex. B-5 at F-30. This is untrue and misleading because the former officers and directors (Klein and Langsam) loaned only \$5,000 to Infeed. *See* OIP at 2. Zwebner, on the other hand, provided Infeed with at least \$40,000. *See id.*; Ex. E.

CONCLUSIONS OF LAW

Section 8(d) of the Securities Act provides that if a registration statement includes any untrue statement of material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission, or its designee, may suspend the effectiveness of the registration statement. 15 U.S.C. § 77h(d). "[T]he essential purpose of [a registration statement] is to 'protect investors by promoting full disclosure of information thought necessary to informed investment decisions.'" *The Application of mPhase Techs., Inc.*, Securities Exchange Act of 1934 Release No. 74187, 2015 SEC LEXIS

³ The Division maintains that, in fact, a comparison of the handwriting on the transfer agent and registrar agreement forms with the handwriting examples in Exhibit G reveal that the forms were filled out by Zwebner, not Klein. Motion at 5. I believe that the Division is correct. Nonetheless, such a factual finding is not necessary for this decision.

398, at *22 (Feb. 2, 2015) (quoting *The Application of World Trade Fin. Corp.*, Exchange Act Release No. 66114, 2012 SEC LEXIS 56, at *22 (Jan. 6, 2012)). “Information in a registration statement is material when there is a substantial likelihood that a reasonable investor would attach importance to it in determining whether to purchase the security in question.” *Petrofab Int’l, Inc.*, Securities Act Release No. 6769, 1988 SEC LEXIS 782, at *16 (Apr. 20, 1988) (citing *TSC Indus., Inc. v. Norway, Inc.*, 426 U.S. 438, 449 (1976)); see 17 C.F.R. § 230.405 (defining a material fact as one to which “there is a substantial likelihood that a reasonable investor would attach importance in determining whether to purchase the security”).

Item 11(n) of Form S-1 requires a registrant to furnish the information required by Item 404 of Regulation S-K, including the identity of any promoter or control person that the registrant had within the last five fiscal years. See Item 11(n) of Form S-1; 17 C.F.R. § 229.404(c)(1). A promoter is defined to include “[a]ny person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer.” 17 C.F.R. § 230.405. Control is defined to mean “the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person.” *Id.* Zwebner meets both definitions. The term sheet between Zwebner and Klein reveals that Zwebner provided most of Infeed’s working capital and held the majority financial interest in the company. Ex. E; see OIP at 2; *The Registration Statement of Hughes Capital Corp.*, Securities Act Release No. 6725, 1987 SEC LEXIS 4158, at *18 (July 20, 1987) (connecting “control” with significant participation in the proceeds of an offering). Zwebner also shepherded Infeed through its registration process. See *The Registration Statement of Hughes Capital Corp.*, 1987 SEC LEXIS 4158, at *12-14 (finding individuals to be “undisclosed promoters” where, among other things, they “provid[ed] information to Hughes’ attorneys for inclusion in the registration statement” and otherwise “assist[ed] in the . . . planning to complete the offering”). Significantly, he (1) drafted the registration statement and had the directors’ stock certificates sent to his home, see Exs. H, J; (2) retained a transfer agent and auditor for Infeed, and communicated with them on an ongoing basis, see, e.g., Exs. F, I; and (3) had a role in responding to the Division of Corporation Finance’s comment letter, see Exs. R-S.

The registration statement’s omission of Zwebner’s role as a control person and promoter is material. See OIP at 2. Both courts and the Commission have held that failure to disclose a promoter’s and control person’s participation in an issuer’s formation, offering, and operations in registration statements constitutes a material omission. See, e.g., *SEC v. Fehn*, 97 F.3d 1276, 1290 (9th Cir 1996); *The Registration Statement of Hughes Capital Corp.*, 1987 SEC LEXIS 4158, at *18-19; *Am. Fin. Co.*, Securities Act Release No. 4465, 1962 SEC LEXIS 632, at *5-7 (Mar. 19, 1962); *Hart Oil Corp.*, Securities Act Release No. 4147, 1959 SEC LEXIS 33, at *4-5 (Oct. 9, 1959). Thus, a stop order is warranted.

A stop order is also appropriate because of the other false or misleading statements described above, namely, the registration statement’s failure to disclose Zwebner’s majority financial interest in Infeed and his capital contributions, and its overstatement of the capital contributions of the company’s officers and directors. See OIP at 2. These misstatements and omissions are material. See, e.g., *The Registration Statement of Blue Mountain Eco Tours*, Admin. Proc. Rulings Release No. 966, 2016 SEC LEXIS 747, at *8-9, *12 (ALJ Feb. 26, 2016).

ORDER

Under Section 8(d) of the Securities Act of 1933, the effectiveness of the Form S-1 registration statement of Infeed Medica Corp., filed July 22, 2014, and amended on August 28 and September 23, 2014, and February 23 and March 26, 2015, is SUSPENDED.

This initial decision shall become effective in accordance with and subject to the provisions of Rule 360, 17 C.F.R. § 201.360. Under this rule, a party may file a petition for review of this initial decision within twenty-one days after service of the initial decision. A party may also file a motion to correct a manifest error of fact within ten days of the initial decision, under Rule 111, 17 C.F.R. § 201.111(h). If a motion to correct a manifest error of fact is filed by a party, then a party shall have twenty-one days to file a petition for review from the date of the undersigned's order resolving such motion to correct a manifest error of fact.

This initial decision will not become final until the Commission enters an order of finality. 17 C.F.R. § 201.360(d). The Commission will enter an order of finality unless a party files a petition for review or a motion to correct a manifest error of fact or the Commission determines on its own initiative to review the initial decision as to a party. *Id.* If any of these events occur, the initial decision shall not become final as to that party. *Id.*

Respondent is notified that it may move to set aside the default in this case. Rule 155(b) permits the Commission, at any time, to set aside a default for good cause, in order to prevent injustice and on such conditions as may be appropriate. 17 C.F.R. § 201.155(b). A motion to set aside a default shall be made within a reasonable time, state the reasons for the failure to appear or defend, and specify the nature of the proposed defense in the proceeding. *Id.*

James E. Grimes
Administrative Law Judge