

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

In the Matter of :
:
THE REGISTRATION STATEMENT OF : INITIAL DECISION
ELECTROPREMIUM : December 6, 2022

APPEARANCE: Richard Hong and Joshua D. Tannen, Esqs., for the
Division of Enforcement, Securities and Exchange Commission

Khurram Afzal for Electropremium

BEFORE: Carol Fox Foelak, Administrative Law Judge

SUMMARY

This Initial Decision suspends the effectiveness of the registration statement of Electropremium. The basis for this “stop order” is that the registration statement includes material misstatements and omissions and untrue and misleading statements of material facts; and omits required information, such as audited financial statements.

I. INTRODUCTION

A. Procedural Background

The Commission initiated this proceeding by an Order Instituting Proceedings (OIP) on September 6, 2022. The proceeding is a stop order proceeding, authorized pursuant to Section 8(d) of the Securities Act of 1933. The OIP ordered Electropremium to file an Answer within ten days after service of the OIP and ordered that a hearing on the allegations commence at 10:00 a.m. on September 21, 2022, via remote means and/or at the Commission’s offices at 100 F Street, N.E., Washington, DC 20549. OIP at 2-3. Electropremium, a California corporation, was served with the OIP on September 7, 2022, by personal service on Khurram Afzal, Electropremium’s CEO, president, director, controller, accountant, legal counsel and agent for service of process.¹ See Securities Act Section 8(d); 17 C.F.R. § 201.141(a)(2)(ii), (v). Electropremium did not file a timely Answer, due on Monday, September 19, 2022, and did not

¹ The Form S-1 registration statement at issue specified Khurram Afzal’s roles in the company.

appear at the September 21, 2022, hearing.² *Electropremium*, Admin. Proc. Rulings Release No. 6870, 2022 SEC LEXIS 2534 (A.L.J. Sept. 21, 2022) (*inter alia*, advising that if it wished to continue to participate in the proceeding, it should file an Answer by September 28 and respond to the Division of Enforcement’s post-hearing filing by October 26). *Electropremium* then defended the proceeding in a number of filings and emails, which the undersigned has considered in this decision.

At the one-day hearing, held via remote means, the Division of Enforcement called two witnesses from whom evidence was taken, Mary Beth Breslin, Chief of the Office of Real Estate & Construction, of the Commission’s Division of Corporation Finance (CorpFin), and Ricky Tong, a Division of Enforcement (Division) data analyst.³ Four exhibits were admitted. *Electropremium* did not appear. A post-hearing briefing schedule was set: the due dates for the Division’s opening filing, *Electropremium*’s opposition, and the Division’s reply were October 12, October 26, and November 2, 2022, respectively. *Id.* at *1-2.

On October 4, 2022, *Electropremium* filed an Answer (substantially similar to emails that it had previously sent to the Office of Administrative Law Judges on September 26 and 28). On October 12, 2022, it filed an application to withdraw its registration statement, which the Commission denied on October 26, 2022. *Electropremium*, Securities Act Release No. 11127, 2022 SEC LEXIS 2887. The Division filed Proposed Findings of Fact and Conclusions of Law on October 12, 2022. *Electropremium* did not file an opposition. On November 2, 2022, in lieu of a substantive reply, the Division filed notice of Respondent’s failure to file an opposition to the Division’s Proposed Findings of Fact and Conclusions of Law.

The findings and conclusions in this ID are based on the record. Official notice pursuant to 17 C.F.R. § 201.323 is taken of the Commission’s public official records concerning *Electropremium* and of the California Secretary of State records as well. *See Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at *1 n.1 (Apr. 18, 2013), *pet. denied*, 575 F. App’x 1 (D.C. Cir. 2014). Preponderance of the evidence was applied as the standard of proof. *See Steadman v. SEC*, 450 U.S. 91, 97-104 (1981). All arguments and proposed findings and conclusions that are inconsistent with this ID were considered and rejected.

² On September 12, 2022, the undersigned had ordered that the hearing would be held remotely, via WebEx, starting at 10:00 a.m. EDT, as the Commission ordered, and that “[t]he Division should circulate instructions for joining the WebEx meeting, including to Respondent at its email address.” *The Registration Statement of Electropremium*, Admin. Proc. Rulings Release No. 6868, 2022 SEC LEXIS 2338. In an email sent on September 21 after the hearing had concluded, Mr. Afzal admitted that he had failed to appear at the scheduled 10:00 a.m. EDT time, stating, “I tried to join the meeting at 10:00 a.m. California time,” *i.e.*, 1:00 p.m. EDT, and also described receiving the instructions for joining the WebEx meeting as “hacking” into his phone. He repeated these assertions in his Answer, filed on October 4.

³ Citations to the transcript are noted as “Tr. ___.” Citations to exhibits, all of which were offered by the Division, are noted as “Div. Ex. ___.”

B. Allegations and Arguments of the Parties

This proceeding concerns a registration statement filed by Electropremium on August 18, 2022. The Division seeks a stop order pursuant to Securities Act Section 8(d), alleging that the registration statement contains material misrepresentations and omissions within the meaning of Section 8(d), omits to include certain additional material information required by Commission rules, and lacks audited financial statements; and further, that, Electropremium failed to, and cannot, meaningfully contest the Division's evidence. In its Answer, Electropremium claimed that the Commission is required to qualify its registration statement; and that it is not looking for investors, was unsuccessful in engaging a CPA to prepare an audited financial statement as a result of an Internal Revenue Service lien on the company, and did not even receive a call-back when it tried to contact an attorney to provide a legal opinion as to the validity of the shares to be issued pursuant to the Form S-1.

II. FINDINGS OF FACT

The Commission's public official records, of which official notice is taken pursuant to 17 C.F.R. § 201.323, disclose that Electropremium filed a registration statement under the Securities Act on August 18, 2022.⁴ The registration statement, filed on Form S-1, represents that Electropremium (CIK No. 1723157),⁵ is organized under the laws of California and that its products are the installation of solar cells on top of used hybrid vehicles; the manufacturing and design of wireless computer modems; and the design and manufacturing of battery chargers for hybrid vehicles, for which "a contract is in process with Defense Supply Center Columbus." The registration statement states that Mr. Afzal is the CEO, president, director, controller, accountant, and legal counsel; and is also an electrical engineer with a background in computers. It further states that Electropremium is not looking for investors, has zero business income, is disputing a federal tax lien, and is under suspension by the Franchise Tax Board of the California Secretary of State for not paying the minimum yearly tax of \$800, with the total amount due being between \$7,000 and \$8,000, including estimated penalties. It states that its assets total \$600,500,000, of which \$600,000,000 is comprised of "security papers." The claim that the company is not looking for investors is inherently incredible when made in a registration statement since the purpose of a company's registration statement is to enable it to sell securities to the public. Likewise, the claim that the company has assets of over \$600 million despite zero income and failure to pay a yearly minimum tax of \$800 is inherently incredible. These claims are so facially untrue as to be intentional misrepresentations. The facts found based on the unrebutted evidence of Ricky Tong, *infra*, reinforce this finding.

⁴ The filing, which is a refiling of a Form S-1 that was withdrawn on August 11, 2022, by filing Form RW, may be viewed on the Commission's EDGAR database: https://www.sec.gov/Archives/edgar/data/1723157/000172315722000009/refiling1khurram5for ms_1.txt. It is also in evidence as Division Exhibit 1.

⁵ The CIK number is a unique identifier for each corporation in the Commission's EDGAR database. The user can retrieve filings of a corporation by using its CIK number.

CorpFin's Mary Beth Breslin is in charge of an office, staffed by attorneys and accountants, that reviews disclosure documents, including registration statements. Tr. 10-12. She understands that the purpose of a Form S-1 registration statement is to enable the filer to make offers and sales of its securities to the public. Tr. 13. She reviewed Electropremium's August 18, 2022, Form S-1 registration statement on August 19, 2022. Tr. 14-18. She found that it was unusually short and lacked significant information, including audited financial statements, most of the requirements of the management's discussion and analysis item, information about management and executive compensation, the company's certificate of incorporation, and a legal opinion on the validity of the shares being issued. Tr. 16-17. The registration statement also contained a lot of confusing or conflicting information and lacked a delaying amendment, and thus, it would have become effectively automatically twenty days after it was filed.⁶ Tr. 17-19. Most filers include a delaying amendment, which gives the staff time to review the filing and the filer time to correct any deficiencies. Tr. 19-20.

Ms. Breslin telephoned Mr. Afzal on August 19, 2022. Tr. 20. A colleague, Jeffrey Gabor, a branch chief in her group, joined in the call. Tr. 20. She informed Mr. Afzal that there were significant deficiencies in the filing, including a lack of audited financial statements. Tr. 20. She suggested a delaying amendment, which would give him time to locate an auditor and rectify all the other deficiencies. Tr. 20. After receiving a voicemail that suggested that he had some questions about the delaying amendment, Ms. Breslin and Mr. Gabor telephoned Mr. Afzal again on August 22, 2022. Tr. 21. She encouraged him to file a delaying amendment or, alternatively, to withdraw the Form S-1, pointing out the language that stated that Electropremium was not looking for investors. Tr. 21. She told him that he would need to engage an auditor registered with the Public Company Accountability Oversight Board (PCAOB) and provided information about the PCAOB and Form S-1's requirements for an auditor's report. Tr. 21-22. Mr. Afzal did not file a delaying amendment or seek to withdraw the Form S-1 during the next several days, and, on August 26, 2022, they emailed him a letter requesting him to withdraw the Form S-1 and warning him that, in light of the serious deficiencies in the filing and the lack of a delaying amendment, they would likely recommend action to prevent it from going effective if he did not do so; the letter invited him to contact Ms. Breslin or Mr. Gabor with any questions. Tr. 22-24; Div. Ex. 3. He did not respond, and the Commission instituted this proceeding on September 6, 2022. Tr. 24-25.

Ricky Tong's duties include joining on the Division's phone calls with witnesses and other participants. Tr. 30-31. He was on a call between Richard Hong and Joshua Tannen of the Division and Mr. Afzal. Tr. 31-34.

The following facts are found based on the Mr. Tong's un rebutted testimony as to Mr. Afzal's representations in response to questions during the phone call: Mr. Tannen advised Mr. Afzal that the Commission intended to file a stop order proceeding but that Mr. Afzal could still file a withdrawal or a delaying amendment. Tr. 31, 34. In response to questions from the

⁶ Absent a delaying amendment, a registration statement becomes effective by operation of law twenty days after it is filed. Securities Act Section 8(a).

Division, Mr. Afzal said that the company did not have any products, proprietary technology, designs, schematics, copyrights, manufacturing capabilities, or contracts with customers; that he had a background in electrical engineering but not any expertise specifically in the products disclosed in the registration statement; and that his intention was to use the proceeds from the sale of securities to hire the necessary employees to build those products. Tr. 32-33. Mr. Afzal said that the company did not have any income and that his only source of income was as an Uber driver. Tr. 33. Mr. Afzal said that the \$600,500,000 valuation of the company's assets was solely based on valuing unsold securities. Tr. 33. The Division again informed him that he still could file either a withdrawal of the Form S-1 registration statement or file a delaying amendment, and Mr. Afzal affirmatively declined to do either. Tr. 33-34.

On September 19, 2022, Mr. Afzal filed a letter asking that the registration statement "be declared qualified" on September 21, 2022, at "11:00 a.m. ET, or as soon thereafter as is reasonably practicable." Div. Ex. 4. The letter reiterated the representation that the "Company is not looking for any investors." Div. Ex. 4.

On October 12, 2022, after the September 21, 2022, hearing in this proceeding, and several hours after the Division filed its Proposed Findings of Fact and Conclusions of Law, Electropremium filed an application to withdraw the registration statement, which the Commission denied "in view of the pendency of the 8(d) stop order proceedings, . . . [and of] the public interest and the protection of investors." *Electropremium*, Securities Act Release No. 11127, 2022 SEC LEXIS 2887, at *2 (Oct. 26, 2022).

III. CONCLUSIONS OF LAW

Evidence taken at the hearing and the Commission's public official records fully support the allegations. Thus, it is concluded that Electropremium included untrue statements of material facts and omitted to state material facts that were required to be included in its registration statement within the meaning of Securities Act Section 8(d). Therefore, a stop order will be issued.

A. Securities Act Requirements

Securities Act Section 7(a) and Schedule A (25), (26) require a registration statement to contain an audited balance sheet and income statement. Securities Act Sections 7(a) and 19(a) authorize the Commission to adopt regulations to carry out these requirements. In the instant case, Electropremium was required to furnish this information on Form S-1 (17 C.F.R. § 239.11), authorized under the Securities Act. Non-financial information furnished must comply with Regulation S-K (17 C.F.R. Part 229). Financial information must comply with Regulation S-X (17 C.F.R. Part 210).

B. Electropremium's Material Omissions and Misrepresentations

Electropremium's filing lacks an audited balance sheet and income statement, as required by Item 11 of Form S-1, as well as most other information required by Item 11. These omissions are omissions of material fact. The Commission has long recognized the materiality of an

audited balance sheet in compliance with the registration requirements of the Securities Act. *See Queensboro Gold Mines, Ltd.*, Securities Act Release No. 1617, 1937 SEC LEXIS 893, at *2-4 (Nov. 17, 1937). The registration statement has additional shortfalls. The claims that the company had over \$600 million in assets based on its valuation of its unsold securities and was not looking for investors are inherently incredible.

The record shows that Electropremium included untrue statements of material facts or omitted to state material facts that were required to be included in its registration statement. A material fact within the meaning of Securities Act Section 8(d) is one to which “there is a substantial likelihood that a reasonable investor would attach importance in determining whether to purchase the security.” 17 C.F.R. § 230.405. Even assuming that Mr. Afzal truly believed all the questionable and false statements in the registration statement, that is not a defense to this requirement. If an untrue material fact is included in a registration statement or a material fact is omitted, the registrant’s good faith or lack of scienter does not influence whether a stop order should issue. *Kiwago Gold Mines Ltd.*, Securities Act Release No. 3278; 27 S.E.C. 934, 943; 1948 SEC LEXIS 7, at *21 (Mar. 29, 1948)⁷; *U.S. Molybdenum Corp.*, Securities Act Release No. 2743; 10 S.E.C. 796; 804, 1941 SEC LEXIS 237, at *18-19 (Dec. 19, 1941)⁸ (citing *Herman Hanson Oil Syndicate*, Securities Act Release No. 1555; 2 S.E.C. 743, 746; 1937 SEC LEXIS 879, at *6 (Sept. 15, 1937)).

IV. SANCTION

The Division requests a stop order suspending the effectiveness of Electropremium’s registration statement. This sanction will serve the public interest and the protection of investors, pursuant to Section 8(d) of the Securities Act, and accords with Commission precedent.

V. RECORD CERTIFICATION

Pursuant to Rule 351(b) of the Commission’s Rules of Practice, 17 C.F.R. § 201.351(b), it is certified that the record includes the items set forth in the corrected record index issued by the Secretary of the Commission on November 28, 2022.

VI. STOP ORDER

IT IS ORDERED, pursuant to Section 8(d) of the Securities Act of 1933, 15 U.S.C. § 77h(d), that the EFFECTIVENESS of the REGISTRATION STATEMENT filed by ELECTROPREMIUM IS SUSPENDED.

This Initial Decision shall become effective in accordance with and subject to the provisions of Rule 360 of the Commission’s Rules of Practice, 17 C.F.R. § 201.360. Pursuant to

⁷ The date is reported as March 29 in S.E.C. Reports (Volume 27, published in 1953) and as March 31 in SEC LEXIS.

⁸ The date is reported as December 19 in S.E.C. Reports (Volume 10, published in 1944) and as December 20 (a Saturday) in SEC LEXIS.

that 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, pursuant to Rule 111 of the Commission's Rules of Practice, 17 C.F.R. § 201.111. 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. The Initial Decision will not become final until the Commission enters an order of finality. 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. If any of these events occur, the Initial Decision shall not become final as to that party.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge