

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 74226 / February 6, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16378

In the Matter of

**MOUNTAIN SHARE
TRANSFER, LLC and
ERIK STERLING NELSON,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 17A(c) AND
21C OF THE SECURITIES EXCHANGE
ACT OF 1934, 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 against Mountain Share Transfer, LLC (“MST”) and Erik Sterling Nelson (collectively, “Respondents”) pursuant to Sections 17A(c) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”).

II.

In anticipation of the institution of these proceedings, Respondents have 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 them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 17A(c) and 21C of the Securities Exchange Act of 1934, 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 Respondents' Offer, the Commission finds¹ that:

Summary

1. Between at least September 2012 and October 2014, MST, a Georgia-based transfer agent registered with the Commission, and its predecessor, Mountain Share Transfer, Inc., failed to comply with various transfer agent registration, record-keeping and other provisions of the Securities Exchange Act of 1934 ("Exchange Act") and rules promulgated thereunder. Specifically, among other things, MST, under the control of Nelson, its President and sole employee, filed with the Commission in March 2013 a false and misleading amended Form TA-1 (Registration of Transfer Agent), which affirmatively misrepresented that Nelson had never been involved in a violation of the rules of a self-regulatory organization ("SRO") or been disciplined, expelled, suspended or barred by an SRO. In fact, in 1995, Nelson was disciplined by the National Association of Securities Dealers ("NASD"), including a bar and sanctions for taking private payments in exchange for recommending that his clients purchase certain securities offerings. Further, MST's amended Form TA-1 was filed with the Commission in March 2013 – more than five months after Nelson acquired the company and relocated it from Colorado to Georgia – well beyond the 60-day limit for filing an amended Form TA-1 to report the change in ownership and address of the principal office where transfer agent activities were or were to be performed, including a new mailing address, if different.

2. Under Nelson's control, MST also filed with the Commission in March 2013 a false and misleading Form TA-2 (Transfer Agent Annual Activities Disclosure), which incorrectly indicated that MST had amended its existing Form TA-1 during calendar year 2012 within 60 days of any information on the TA-1 becoming inaccurate, incomplete or misleading. The certification by MST on this Form TA-2 was incorrect because MST did not file any Form TA-1 during calendar year 2012. Further, MST filed a separate Form TA-2 during April 2014 on which it certified that it had also followed the 60-day Form TA-1 amendment requirement during calendar year 2013. However, the only Form TA-1 for MST filed during 2013 was filed more than 60 days after Nelson acquired and moved the business to Georgia and affirmatively misrepresented Nelson's disciplinary history. MST filed an amended Form TA-1 in March 2014 on which Nelson's disciplinary history was disclosed.

3. In addition to these false and untimely filings with the Commission, MST, under Nelson's control, failed to comply with other provisions of the Exchange Act and the rules thereunder governing transfer agents. Specifically, MST failed to: (i) follow record-keeping requirements by making and keeping current appointment and/or termination documentation or other contracts and documents concerning the transfer agent services that MST performed for securities issuers; (ii) maintain written procedures describing MST's obligation to search for lost security holders; (iii) establish and implement written procedures for the cancellation, storage,

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

transportation, destruction and disposition of securities certificates, as well as provide in such procedures for the timely and complete reporting of any cancelled certificate that is lost, stolen, missing, or counterfeit; and (iv) comply with required procedures for the fingerprinting of all transfer agent employees.

Respondents

4. **MST** is a transfer agent registered with the Commission. In September 2012, Nelson acquired Mountain Share Transfer, Inc. from its previous owners in Colorado and relocated the business to Georgia. In 2013, Nelson created Mountain Share Transfer, LLC, a Georgia limited liability company, and merged Mountain Share Transfer, Inc. into Mountain Share Transfer, LLC in January 2014, resulting in Mountain Share Transfer, LLC emerging as the surviving entity. Mountain Share Transfer, LLC is now registered with the Commission as a transfer agent. As of 2014, MST had been engaged as a transfer agent by approximately 20 corporate issuers to perform various shareholder administrative functions, including recording changes in ownership of the issuers' stock, maintaining the issuers' security holder records, canceling and issuing stock certificates and resolving problems arising from lost, destroyed or stolen certificates.

5. **Nelson**, 47, and a resident of Atlanta, Georgia, is the President and the sole employee of MST, a securities transfer agent which Nelson runs out of his house in Atlanta. Nelson acquired MST on or about September 19, 2012. Previously, Nelson worked as a registered representative for several broker-dealers between 1989 and 1995, when NASD barred and sanctioned Nelson for taking private payments in exchange for recommending that his clients purchase certain securities offerings.

Registration and Reporting

6. On or about September 19, 2012, Nelson acquired MST through a stock purchase agreement between MST's former owners and Sterling Investment Services, Inc., a separate corporation owned by Nelson. Nelson then moved MST's operations to his home in Atlanta, Georgia.

7. On or about March 14, 2013, more than five months after Nelson acquired MST and moved it to Georgia, MST filed with the Commission, through Nelson and under his signature, an amended Form TA-1. The Form TA-1, and instructions thereto, required MST, among other information, to disclose: (1) its officers, owners, and control persons; (2) the address of the principal office where MST's transfer agent activities occur; and (3) the disciplinary history of MST and any control affiliates, defined as an individual or firm that directly or indirectly controls, is under common control with, or is controlled by MST.

8. The Form TA-1 that MST filed with the Commission on March 14, 2013, identified Nelson as the new President of MST and provided MST's new principal office address in Georgia. MST's filing of this Form TA-1 was more than 60 days after Nelson acquired the entity and moved it to Georgia.

9. Further, MST, on its Form TA-1 filed on March 14, 2013, affirmatively misrepresented Nelson's discipline by the NASD stemming from Nelson's prior work as a registered representative for a broker-dealer. On the Form TA-1, MST answered "No" to questions asking whether Nelson, as the "control affiliate" of MST, was ever involved in the violation of the rules of an SRO or was ever disciplined, expelled, suspended or barred by an SRO. Because MST's responses to the disciplinary questions were incorrect from the moment they were filed with the Commission, this information was immediately inaccurate, misleading, or incomplete, triggering MST's obligation to amend the Form TA-1 within 60 days, which did not happen until nearly one year later in March 2014.

10. On or about March 27, 2013, MST, through Nelson and under his signature, filed with the Commission a Form TA-2 on which MST indicated that it had amended its Form TA-1 during calendar year 2012 within 60 calendar days following the date on which information reported on the Form TA-1 became inaccurate, incomplete, or misleading. However, MST did not file any Form TA-1 during calendar year 2012. Further, MST filed a separate Form TA-2 with the Commission in April 2014 on which MST also indicated it followed the 60-day Form TA-1 amendment requirement for calendar year 2013. However, MST only filed one Form TA-1 with the Commission during 2013. That Form TA-1 was filed more than five months after Nelson acquired and moved MST to Georgia in September 2012 and did not disclose Nelson's disciplinary history with the NASD, and instead affirmatively denied that such discipline had occurred. MST filed an amended Form TA-1 disclosing Nelson's disciplinary history in March 2014.

Record Keeping

11. Beginning on or about September 19, 2012, when Nelson acquired MST, and continuing until at least August 2014, MST lacked appointment documentation for various issuers for which MST was serving as a transfer agent. Nelson, as the President and sole employee of MST, learned of the lack of appointment documentation after he acquired MST and failed to make prompt efforts to remedy the problem until staff from the Commission's National Exam Program noted in 2013 that Nelson lacked written contracts for sixteen of the nineteen issuers that MST was serving at that time.

Written Policies and Procedures

12. Beginning on or about September 19, 2012, when Nelson acquired MST, and continuing until at least the fall of 2013, MST lacked any written procedures describing MST's methodology for complying with its obligation to search for lost security holders.

13. Beginning on or about September 19, 2012, when Nelson acquired MST, and continuing until at least the summer of 2013, MST failed to establish and implement written procedures for the cancellation, storage, transportation, destruction or other disposition of securities certificates.

Fingerprinting

14. Beginning on or about September 19, 2012, when Nelson acquired MST, and continuing until at least August 2013, MST failed to have Nelson fingerprinted. Further, not until October 2014 did MST submit Nelson's fingerprints to the appropriate designee.

Violations

As a result of the conduct described above, MST willfully² violated:

15. Section 17A(d) of the Exchange Act which prohibits a transfer agent from engaging in any activity as a transfer agent in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise;

16. Section 17A(c) of the Exchange Act and Rule 17Ac2-1 thereunder, which require that transfer agents: (1) register with the Commission by filing a true, correct, and complete Form TA-1 in accordance with the instructions therein (Rule 17Ac2-1(a)); and (2) file an amended Form TA-1 within 60 days (Rule 17Ac2-1(c)) if any information in a transfer agent's Form TA-1 became inaccurate, misleading or incomplete to correct the information;

17. Section 17A(c) of the Exchange Act and Rule 17Ac2-2 thereunder, by filing with the Commission a false and misleading Form TA-2 on which MST certified that it had amended its Form TA-1 within 60 days of any information becoming inaccurate, misleading or incomplete;

18. Sections 17(a)(1) and 17(a)(3) of the Exchange Act and Rules 17Ad-6(a)(8) and 17Ad-7 thereunder, which require transfer agents to make and keep current and to retain for prescribed periods of time certain records, respectively, including documents concerning the appointment and termination of the transfer agent to act in any capacity for a securities issuer;

19. Rule 17Ad-17 under the Exchange Act, which requires that recordkeeping transfer agents maintain records to demonstrate compliance with the requirements of the rule, which records must include written procedures describing the transfer agent's methodology for complying with its obligation to search for lost security holders;

20. Rule 17Ad-19 under the Exchange Act, which requires that transfer agents involved in the handling, processing, or storage of securities certificates shall establish and implement written procedures for the cancellation, storage, transportation, destruction or other disposition of securities certificates; and

² 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)).

21. Section 17(f)(2) of the Exchange Act and Rule 17f-2 thereunder, requiring transfer agents to have all partners, directors, officers and employees fingerprinted and to have those fingerprints submitted to the Attorney General of the United States or its designee.

22. As a result of the conduct described above, Nelson willfully aided and abetted and caused MST's violations of Sections 17(a)(1), 17(a)(3), 17(f)(2), 17A(c) and 17A(d) of the Exchange Act and Rules 17f-2, 17Ac2-1, 17Ac2-2, 17Ad-6(a)(8), 17Ad-7, 17Ad-17, and 17Ad-19 thereunder.

Undertakings

MST undertakes to:

23. Retain within 30 days after entry of this Order, the services of an Independent Consultant, not unacceptable to the Commission's staff, and thereafter exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Consultant. MST shall retain the Independent Consultant to conduct a comprehensive review of, and recommend corrective measures concerning, its policies and procedures relating to the making, keeping and filing of Forms TA-1 and Forms TA-2 with the Commission, as well as its record keeping requirements, its obligation to establish and maintain written policies, and its fingerprinting requirements. MST shall cooperate fully with the Independent Consultant and shall provide the Independent Consultant with access to MST's files, books, records, and personnel as reasonably requested;

24. No more than 120 days after the entry of this Order, submit to the Commission's staff a written report that MST will obtain from the Independent Consultant regarding MST's policies and procedures. The report will include a description of the review performed, the conclusions reached, the Independent Consultant's recommendations for changes or improvements to the policies and procedures, and a procedure for implementing any recommended changes;

25. Adopt all recommendations made by the Independent Consultant, provided, however, that within 150 days after the entry of this Order, MST will advise the Independent Consultant and the staff of the Commission in writing of any recommendations which MST considers unnecessary or inappropriate. MST need not adopt such recommendations at that time, but instead propose in writing an alternative policy, procedure or system designed to achieve the same objective or purpose. As to any recommendation with respect to MST's policies or procedures on which MST and the Independent Consultant do not agree, MST will attempt in good faith to reach an agreement with the Independent Consultant within 180 days of the entry of this Order. In the event that MST and the Independent Consultant are unable to agree on an alternative proposal, MST will abide by the determinations of the Independent Consultant;

26. Ensure the independence of the Independent Consultant. MST: (a) shall not have authority to terminate the Independent Consultant without prior written approval of the Commission's staff; (b) shall compensate the Independent Consultant, and persons engaged to assist the Independent Consultant, for services rendered pursuant to this Order at their reasonable

and customary rates; (c) shall not be in and shall not have an attorney-client relationship with the Independent Consultant, and shall not seek to invoke the attorney-client privilege or any other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports, or documents to the Commission or the Commission's staff;

27. Require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with MST or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Commission staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with MST or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement; and

28. Certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and MST agrees to provide such evidence. The certification and supporting material shall be submitted to William P. Hicks, Associate Regional Director, U.S. Securities and Exchange Commission, Atlanta Regional Office, 950 East Paces Ferry Road NE, Suite 900, Atlanta, Georgia 30326, with a copy to the Office of Chief Counsel of the Enforcement Division, 100 F Street NE, Washington, D.C. 20549, no later than 60 days from the date of the completion of the undertakings.

IV.

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

Accordingly, pursuant to Sections 17A(c) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent MST cease and desist from committing or causing any violations or future violations of Sections 17(a)(1), 17(a)(3), 17(f)(2), 17A(c) and 17A(d) of the Exchange Act and Rules 17f-2, 17Ac2-1, 17Ac2-2, 17Ad-6(a)(8), 17Ad-7, 17Ad-17, and 17Ad-19 thereunder;

B. Respondent Nelson cease and desist from committing or causing any violations or future violations of Sections 17(a)(1), 17(a)(3), 17(f)(2), 17A(c) and 17A(d) of the Exchange Act and Rules 17f-2, 17Ac2-1, 17Ac2-2, 17Ad-6(a)(8), 17Ad-7, 17Ad-17, and 17Ad-19 thereunder;

C. Respondents MST and Nelson are censured;

D. Respondent Nelson shall pay civil penalties of \$10,000 to the United States Treasury. Payment shall be made in the following installments: \$833.33 within 30 calendar days of this order; \$833.33 within 60 calendar days of this order; \$833.33 within 90 calendar days of this order; \$833.33 within 120 calendar days of this order; \$833.33 within 150 calendar days of this order; \$833.33 within 180 calendar days of this order; \$833.33 within 210 calendar days of this order; \$833.33 within 240 calendar days of this order; \$833.33 within 270 calendar days of this order; \$833.33 within 300 calendar days of this order; \$833.33 within 330 calendar days of this order; and \$833.37 within 360 calendar days of this order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately without further application. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Nelson as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to William P. Hicks, Associate Regional Director, U.S. Securities and Exchange Commission, Atlanta Regional Office, 950 East Paces Ferry Road NE, Suite 900, Atlanta, Georgia 30326; and

E. Respondent MST shall comply with the undertakings enumerated in Section III, Paragraphs 23-28 above.

By the Commission.

Brent J. Fields
Secretary