

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 81559 / September 8, 2017

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3895 / September 8, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-12818

In the Matter of _____ : ORDER GRANTING APPLICATION FOR
John R. Holtzhauser, CPA : REINSTATEMENT TO APPEAR AND PRACTICE
: BEFORE THE COMMISSION AS AN ACCOUNTANT
: RESPONSIBLE FOR THE PREPARATION OR
: REVIEW OF FINANCIAL STATEMENTS REQUIRED
: TO BE FILED WITH THE COMMISSION

On September 20, 2007, John R. Holtzhauser, CPA (“Holtzhauser”) was suspended from appearing or practicing before the Commission as an accountant as a result of settled public administrative proceedings instituted by the Commission against Holtzhauser pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.¹ This order is issued in response to Holtzhauser’s application for reinstatement to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

The Commission found that Holtzhauser had been permanently enjoined by a United States District Court from future violations of Section 17(a) of the Securities Act of 1933 and Sections 10(b) and 13(b)(5) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 10b-5, 13b2-1, and 13b2-2 thereunder, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder. In its complaint in the injunctive action, the Commission alleged, among other things, that Holtzhauser, as the company’s controller, engaged in fraudulent accounting practices which resulted in OM Group, Inc. (“OM”) filing materially false and misleading financial statements in the company’s annual reports on Form 10-K for the fiscal years ended December 31, 2001 and December 31, 2002, and in the company’s quarterly reports on Form 10-Q for all quarters in 2002 and 2003. The materially false and misleading financial statements were also included in a Form S-1 that became effective on January 16, 2002. Holtzhauser recorded and

¹ See Accounting and Auditing Enforcement Release No. 2723 dated September 20, 2007. Holtzhauser was permitted, pursuant to the order, to apply for reinstatement after five years upon making certain showings.

directed numerous erroneous and unsupported accounting entries, estimates, and top side adjustments to OM's books and records that materially increased OM's annual and quarterly net income in a departure from generally accepted accounting principles. These accounting practices allegedly included, among other things, overcapitalizing overhead costs, improperly recording supplier receivables, recording inflated inventory recovery yields, recording inaccurate inventory estimates, and duplicating entries made at the operating unit level. In addition, the complaint alleged that Holtzhauser failed to provide sufficient information to OM's independent auditor about the accounting entries, estimates, and top side adjustments. Holtzhauser consented to the Court's entry of the permanent injunction.

In his capacity as a preparer or reviewer, or as a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, Holtzhauser attests that he will undertake to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, while practicing before the Commission in this capacity. Holtzhauser is not, at this time, seeking to appear or practice before the Commission as an independent accountant. If he should wish to resume appearing and practicing before the Commission as an independent accountant, he will be required to submit an application to the Commission showing that he has complied and will comply with the terms of the original suspension order in this regard. Therefore, Holtzhauser's suspension from practice before the Commission as an independent accountant continues in effect until the Commission determines that a sufficient showing has been made in this regard in accordance with the terms of the original suspension order.

Rule 102(e)(5) of the Commission's Rules of Practice governs applications for reinstatement, and provides that the Commission may reinstate the privilege to appear and practice before the Commission "for good cause shown."² This "good cause" determination is necessarily highly fact specific.

On the basis of information supplied, representations made, and undertakings agreed to by Holtzhauser, it appears that he has complied with the terms of the September 20, 2007 order suspending him from appearing or practicing before the Commission as an accountant, that no information has come to the attention of the Commission relating to his character, integrity, professional conduct or qualifications to practice before the Commission that would be a basis for adverse action against him pursuant to Rule 102(e) of the Commission's Rules of Practice, and that Holtzhauser, by undertaking to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, in his practice before the Commission as a preparer or reviewer of financial statements required to be filed with the Commission, has shown good cause for reinstatement. Therefore, it is accordingly,

² Rule 102(e)(5)(i) provides:

"An application for reinstatement of a person permanently suspended or disqualified under paragraph (e)(1) or (e)(3) of this rule may be made at any time, and the applicant may, in the Commission's discretion, be afforded a hearing; however, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the Commission for good cause shown." 17 C.F.R. § 201.102(e)(5)(i).

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that John Holtzhauser, CPA is hereby reinstated to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

By the Commission.

Brent J. Fields
Secretary