

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10497 / May 17, 2018

SECURITIES EXCHANGE ACT OF 1934
Release No. 83267 / May 17, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18491

In the Matter of

**MANHATTAN TRANSFER
REGISTRAR COMPANY
AND JOHN C. AHEARN**

Respondents.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933 AND SECTION
17A OF THE SECURITIES EXCHANGE ACT
OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND
CEASE-AND-DESIST ORDERS**

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 Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 17A of the Securities Exchange Act of 1934 (“Exchange Act”) against Manhattan Transfer Registrar Company (“Manhattan Transfer”) and John C. Ahearn (“Ahearn” and, together with Manhattan Transfer, “Respondents”).

II.

In anticipation of the institution of these proceedings, each Respondent has submitted an Offer of Settlement (collectively, the “Offers”) 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, Manhattan Transfer, 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, and Ahearn, admitting the Commission’s jurisdiction over him and the subject matter of these proceedings, consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 17A of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and Cease-and-Desist Orders (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

Summary

These proceedings arise out of the fraudulent manufacture of undisclosed "blank check" companies (the "Blank Check Companies") by a team of three undisclosed control persons (the "Control Persons"). The primary purpose of the fraud was to sell the entire float of purportedly unrestricted shares of the Blank Check Companies by reverse merger. The Control Persons engaged a small number of professionals to effectuate their fraud, including Manhattan Transfer, a registered transfer agent. Manhattan Transfer and its principal, Ahearn, willfully violated Sections 5(a) and 5(c) of the Securities Act in connection with two Blank Check Companies: InTake Communications, Inc. n/k/a Face Up Entertainment Group, Inc. ("InTake") and Entertainment Art, Inc. n/k/a Biozoom, Inc. ("Entertainment Art"). Shares in both InTake and Entertainment Art were publicly sold shortly after Manhattan Transfer's services without an effective registration statement or applicable exemption or safe harbor from the registration requirements.

Respondents

1. Ahearn, age 56, is a resident of Erie, Colorado. From 2003 to January 2018, Ahearn was the control person of Manhattan Transfer.
2. Manhattan Transfer (CIK No. 0000867498) is a transfer agent based in New York that has been registered with the Commission since 2003. For the year ended December 31, 2017, Manhattan Transfer received 1,027 items for transfer and maintained master securityholder files for 19,830 individual securityholder accounts.

Background

3. From 2007 until November 2013, the undisclosed Control Persons manufactured at least 22 undisclosed Blank Check Companies and sold 18 of them for approximately \$6 million in total. Each Blank Check Company followed the same path to sale. Registration statements (the "Forms S-1") and subsequent Commission filings falsely depicted the Blank Check Companies as actively pursuing business plans (when the only plan from the onset was to be sold as public vehicles) at the helm of a sole officer, director and employee (when the Control Persons were in complete control). The Forms S-1 purported to register an offering of shares of common stock so that the Control Persons could control a deceptive public float of purportedly unrestricted securities. Once the Forms S-1 went effective, the Control Persons solicited friends and family to

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

invest in the Blank Check Companies, while keeping complete control over those investments through such measures as blank stock powers in order to be able to sell all Form S-1 shares in bulk.

4. The Control Persons retained Manhattan Transfer as transfer agent for four Blank Check Companies: InTake, BlueFlash Communications, Inc. (“BlueFlash”), Blue Sun Media, Inc. (“Blue Sun”) and Entertainment Art. Manhattan Transfer, at the direction of Ahearn, removed restrictive legends from and transferred stock certificates for both InTake and Entertainment Art, leading to public sales of restricted securities of both issuers. For each transaction, no registration statement remained in effect, and no exemption or safe harbor from the registration requirements applied.

InTake

5. In 2010, the Control Persons began manufacturing InTake as a Blank Check Company. In November 2010, Ahearn told one of the Control Persons that he may have a potential buyer for InTake. By email dated November 4, 2010 (with the subject “InTake”), Ahearn was told: “If the buyer is real and serious and has the funds to close, he should reach out to [one of the Control Persons]. Closing can be contingent on obtaining DTC eligibility, and the funds will stay in escrow until then.” Attached to the email was a term sheet focusing on InTake’s share structure, with the “deliverable # and % of shares 99%” and “Number of shares in Public float up to 1,200,000.”

6. In or about February 2011, the Control Persons sold InTake for a combination of cash and future stock. In 2012 (after the future stock portion fell through), the Control Persons agreed with the InTake buyer that certain InTake shares would be put in their names, and they would immediately sell them to the buyer for additional cash consideration. Manhattan Transfer acted as the transfer agent for the transactions that took place in 2012.

7. By email dated March 26, 2012, the InTake buyer’s counsel confirmed with the Control Persons (and copying Ahearn) that “when those shares are delivered we can close.” The Control Persons ordered Ahearn to distribute 30,000 shares to their lawyer (for services rendered to InTake) and the InTake buyer’s counsel, and to divide the remaining 940,000 restricted shares among themselves.

8. On April 4, 2012, the InTake buyer’s counsel sent an opinion letter to Manhattan Transfer regarding the sale by the Control Persons to one buyer. The opinion letter stated that “the Shares can be sold by the Sellers pursuant to Rule 144” because InTake was not a “shell company.” However, Ahearn was aware that the Control Persons had InTake for sale as a shell company per the term sheet he had received in November 2010, and was aware or should have been aware that InTake had not filed complete Form 10 information (including but not limited to audited financial statements) until March 2012 at the earliest.

9. The InTake buyer's counsel's opinion letter also stated that neither the Control Persons nor the buyer were affiliates of InTake, despite Ahearn being aware that the Control Persons' transfer of the restricted shares was part of the change in control. The InTake buyer's counsel's opinion letter did not address the simultaneous transfer of shares in his name to the same buyer. Nonetheless, in apparent reliance on the opinion letter, Manhattan Transfer removed the restrictive legend and delivered unlegended stock certificates to the buyer representing the shares of the Control Persons and the Control Persons' lawyer, and also delivered an unlegended stock certificate to the same buyer representing the shares of the InTake buyer's counsel (despite the opinion letter not covering the counsel's own shares). Manhattan Transfer continued to perform services for InTake through at least October 2012.

10. Ahearn ignored a number of red flags with respect to the transfer of shares by the Control Persons, the Control Persons' lawyer and the InTake buyer's counsel, including: (1) Ahearn knew that the Control Persons had been in control of InTake and its entire public float; (2) Ahearn received instructions from the Control Persons, not the named officer; (3) the InTake buyer's counsel's opinion letter was facially inaccurate because InTake was a "shell company" when the pertinent shares were issued and the transactions involved affiliates; and (4) Ahearn transferred the InTake buyer's counsel's shares without an opinion letter in contrast to Manhattan Transfer's policies and procedures.

BlueFlash and Blue Sun

11. In or about June 2011, the Control Persons retained Manhattan Transfer to perform initial transfer agent services for two other Blank Check Companies: Blue Sun and BlueFlash. By email dated October 31, 2012, one of the Control Persons told Ahearn: "We are entering into a transaction on BlueFlash. We will need to transfer the free trading stock (24 shareholders) to new purchasers."

12. By email dated March 21, 2013, Ahearn asked one of the Control Persons whether BlueFlash and Blue Sun are "ready to go? I have a buyer but he is very picky and I know your work is clean." The Control Person responded that "we definitely have clean product available for immediate delivery," and sent Ahearn a term sheet for BlueFlash substantially similar to the one that Ahearn had received for InTake in November 2010.

Entertainment Art

13. Manhattan Transfer acted as transfer agent for Entertainment Art before, during, and after its involvement with InTake, BlueFlash and Blue Sun. Manhattan Transfer had been Entertainment Art's transfer agent since April 2009, and continued to act as transfer agent for Entertainment Art through its change of control in October 2012 and preparation for public trading in 2013.

14. Manhattan Transfer took instructions and sought authorizations from the Control Persons, who were not named officers or directors of Entertainment Art. For example, in February 2011, Ahearn emailed one of the Control Persons as the contact person for a potential reverse merger for Entertainment Art. The Control Person informed Ahearn that he would “send all shares and documents to you in escrow so we can effectuate a closing.” Immediately thereafter, Ahearn assisted the Control Persons in processing Entertainment Art shares for the purpose of obtaining eligibility from the Depository Trust Company (DTC) for the shares to trade electronically, which Ahearn knew was an attractive feature of public vehicles.

15. Ahearn also filed Entertainment Art’s periodic reports with the Commission through the Edgar system. Ahearn approached only the Control Persons to approve the filing of these reports.

16. As early as February 2012, Ahearn was aware that the Control Persons had a “potential buyer” for Entertainment Art. By email dated August 1, 2012, one of the Control Persons forwarded a request for Manhattan Transfer to confirm that it “holds all of the stock there with irrevocable authority to transfer the shares according to my instruction (after closing of course).” Ahearn responded: “We have all the certificates.” The following week, the Control Person asked Ahearn to “confirm you have all the stock powers too.”

17. As the anticipated deal progressed, Ahearn processed stock certificates in the name of the Control Person and his limited liability company. By email dated October 5, 2012, the Control Person told Ahearn: “I sent back a stock power that can be used once we close the deal. . . . We plan to close this deal as soon as the other certs and stock powers are received by you.” By email dated October 12, 2012, Ahearn confirmed for the Control Person that “we have all stock powers or reliance opinions for the transfer of the shares.”

18. The Control Persons were asked why Manhattan Transfer’s certified shareholder lists identified shareholders with both “free trading” and restricted shares. By email dated October 16, 2012, the Control Persons responded: “All but the control block will be free trading shares when the new certs are issued. This has already been cleared with John [Ahearn] at Manhattan Transfer.” The following day, one of the Control Persons emailed Ahearn: “Our attorney is generating the 144 opinion for EERT so that John [Ahearn] can remove the legend on the shares pursuant to Rule 144. . . . John – upon receipt, if you would confirm that you are ready to re-issue the certs without legends (except the control block), we will be ready to close.”

19. On October 18, 2012, one of the Control Persons sent Ahearn a legal opinion letter addressed to Manhattan Transfer “concerning the availability of the safe harbor provided by Rule 144” under the Securities Act to Entertainment Art shares that were designated as “restricted” on a Manhattan Transfer shareholder list. The shareholder list indicated that these “restricted” shares were issued between November 2007 and February 2011. The opinion letter addressed various provisions of Rule 144, but not whether Entertainment Art was a “shell company” for purposes of Rule 144(i). In fact, all of Entertainment Art’s periodic reports from December 31, 2008 to the time of the opinion letter, including those prepared and filed on the Edgar system by Ahearn, indicated that Entertainment Art was and remained a “shell company.” Moreover, the opinion letter failed to address whether any of the shareholders were “affiliates” or the securities were “control securities,” despite the fact that Ahearn knew that the Control Persons were effectuating the bulk sale of all these shares.

20. By email dated October 18, 2012, one of the Control Persons asked Ahearn to “confirm this [opinion letter] is sufficient for you to remove the legend when the certs are re-cut.” Ahearn responded: “I would ask the attorney to add one sentence. I understand that he feels that rule 144(i) doesn’t apply but I would like it mentioned.” Before receiving any such revised opinion, Ahearn told the Control Person “We are good to go. Opinion [without Rule 144(i) discussion] is acceptable.” Based on Ahearn’s acceptance of the opinion letter, the Control Persons told the buyer’s counsel: “Ok, we’re good to go. Please make arrangements to wire the funds.” Manhattan Transfer, through Ahearn, then delivered unlegended stock certificates representing shares in Entertainment Act to the buyer, despite knowing that Entertainment Art was a shell company and that the sellers were “affiliates” of Entertainment Art. The next day, Ahearn emailed the Control Person an invoice with the comment: “Congrats on getting it sold.” The next business day, Manhattan Transfer received a wire transfer for the invoiced amount from a lawyer who Ahearn knew represented the Control Persons.

21. Ahearn and Manhattan Transfer continued to provide transfer agent services into 2013 to complete the bulk transfer of Entertainment Art shares. By email dated March 21, 2013, Ahearn told the Control Persons that “they are finally moving with EERT” and requested that the Control Persons provide corporate resolutions from two shareholders necessary to transfer their stock certificates. Ahearn received the requested documents from the Control Persons.

22. Ahearn ignored a number of red flags with respect to the Entertainment Art shares: (1) Ahearn was aware that the undisclosed Control Persons, not the named officer, controlled Entertainment Art; (2) Ahearn was aware that he was processing the transfers of all of Entertainment Art’s public trading float at the direction of the Control Persons, not the 25 individuals whose names appeared on the certificates; (3) Ahearn purportedly relied on blank stock powers signed by those individuals more than three years earlier; and (4) the Rule 144 opinion letter was facially inaccurate because Entertainment Art was a self-designated “shell company” (on the periodic reports formatted by Ahearn) and the sellers were “affiliates” (despite Ahearn knowing that the Control Persons controlled Entertainment Art and the bulk sale of the shares of all 25 named shareholders, as he knew the Control Persons were similarly doing with BlueFlash).

Violations

23. As a result of the conduct described above, Manhattan Transfer and Ahearn willfully violated Sections 5(a) and 5(c) of the Securities Act, which prohibit the direct or indirect sale of securities through the mail or interstate commerce unless a registration statement is in effect and the direct or indirect offer to sell securities through the mail or interstate commerce unless a registration statement has been filed.

Undertakings

24. Respondent Manhattan Transfer has undertaken to:

a. Retain an independent consultant (the "Independent Consultant"), not unacceptable to the Commission staff, to conduct a review of Manhattan Transfer's policies, procedures, and supervisory controls to identify deficiencies and weaknesses in Manhattan Transfer's policies, procedures, supervisory controls, or in the implementation thereof, intended to prevent the transfer agent from, directly or indirectly, participating in, enabling or facilitating violations of Securities Act Section 5. The Independent Consultant shall not have provided consulting, legal, auditing or other professional services to, nor had any affiliation with, Manhattan Transfer during the two years prior to the institution of these proceedings; however, Manhattan Transfer may seek the Commission staff's waiver of this condition. At its discretion, Commission staff may waive this condition if it is provided information about the proposed Independent Consultant to the satisfaction of the staff that the proposed Independent Consultant's prior services to Manhattan Transfer does not pose a conflict of interest. Manhattan Transfer shall cooperate fully with the Independent Consultant and the Independent Consultant's compensation and expenses shall be borne by Manhattan Transfer.

b. 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 Manhattan Transfer, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. 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's staff enter into any employment, consultant, attorney-client, auditing or other professional relationship with Manhattan Transfer, 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. The agreement will also provide that, within 180 days of the institution of these proceedings, the Independent Consultant shall submit a written report of its findings to Manhattan Transfer, which shall include the Independent Consultant's recommendations for changes in or improvements to Manhattan Transfer's policies, procedures, and supervisory controls.

c. Adopt all recommendations contained in the Independent Consultant's report within 90 days of the date of that report, provided, however, that within 30 days of the report, Manhattan Transfer shall advise in writing the Independent Consultant and the Commission staff of any recommendations that Manhattan Transfer considers to be unduly burdensome, impractical or inappropriate. With respect to any such recommendation, Manhattan Transfer need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedures or system designed to achieve the same objective or purpose. As to any recommendation on which Manhattan Transfer and the Independent Consultant do not agree, Manhattan Transfer and the Independent Consultant shall attempt in good faith to reach an agreement within 60 days after the date of the Report. Within 15 days after the conclusion of the discussion and evaluation by Manhattan Transfer and the Independent Consultant, Manhattan Transfer shall require that the Independent Consultant inform Manhattan Transfer and the Commission staff in writing of the Independent Consultant's final determination concerning any recommendation that Manhattan Transfer considers to be unduly burdensome, impractical, or inappropriate. Within 10 days of this written communication from the Independent Consultant, Manhattan Transfer may seek approval from the Commission staff to not adopt recommendations that Manhattan Transfer can demonstrate to be unduly burdensome, impractical, or inappropriate. Should the Commission staff agree that any proposed recommendations are unduly burdensome, impractical, or inappropriate, Manhattan Transfer shall not be required to abide by, adopt, or implement those recommendations.

d. Certify, in writing, compliance with the undertakings set forth herein. 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 Manhattan Transfer agrees to provide such evidence. The certification and supporting material shall be submitted to Eric R. Busto, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131, with a copy to the Office of Chief Counsel of the SEC Division of Enforcement, no later than the one-year anniversary of the institution of these proceedings.

IV.

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

Accordingly, pursuant to Section 8A of the Securities Act and Section 17A of the Exchange Act, it is hereby ORDERED that:

A. Respondents cease and desist from committing or causing any violations and any future violations of Section 5(a) and 5(c) of the Securities Act.

B. Respondent Manhattan Transfer is censured.

C. Respondent Ahearn be, and hereby is, barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization with the right to apply for reentry after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

D. Any reapplication for association by Respondent Ahearn will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against Respondent Ahearn, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

E. Respondent Manhattan Transfer shall, within 10 days of the entry of this Order, pay disgorgement of \$2,132.57 and prejudgment interest of \$361.96. If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

F. Respondent Manhattan Transfer shall pay a civil money penalty in the amount of \$50,000.00 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). Payment shall be made in the following installments: \$15,000.00 within 10 days of the entry of this Order, \$15,000.00 plus post-judgment interest within 180 days of the entry of this Order, and \$20,000.00 plus post-judgment interest within 365 days of the entry 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 Manhattan Transfer may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Manhattan Transfer 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 Manhattan Transfer 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 Manhattan Transfer Registrar Company 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 Glenn S. Gordon, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 801 Brickell Avenue, 18th Floor, Miami, FL 33131.

G. 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 Manhattan Transfer 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 Manhattan Transfer'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 Manhattan Transfer 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 Manhattan Transfer 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.

H. Respondent Manhattan Transfer shall comply with the undertakings enumerated in Section III above.

By the Commission.

Brent J. Fields
Secretary