

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 88723 / April 22, 2020

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4128 / April 22, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19759

In the Matter of

KENNETH D. SHIFRIN,
CPA

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Kenneth D. Shifrin (“Shifrin” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has 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 Respondent and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-And-Desist Proceedings Pursuant to Section 21C of the Exchange Act, Making Findings, and Imposing a Cease-And-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

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

SUMMARY

1. These proceedings involve Liquid Holdings Group, Inc.'s ("Liquid") materially misleading disclosures in its periodic filings regarding the nature and growth of its customer base. During the third quarter of 2013 through the second quarter of 2014, Liquid represented that its ability to expand its customer base was an indicator of the growth of its business. Liquid also stated in its Form 10-K for 2013 and its quarterly filings for the first and second quarters of 2014 that QuantX Management LLP ("QuantX"), its largest customer and a related party, and Liquid's affiliated customers, accounted for a small percentage of its customers. During the relevant period, however, Liquid's customer base consisted almost entirely of customers that were referred to Liquid by QuantX and provided with trading capital by QuantX (the "QuantX Traders"). Liquid did not disclose in its periodic filings that virtually all of its customers were QuantX Traders.

2. Shifrin, Liquid's CFO, reviewed and signed the SEC filings described above.

3. As a result of the conduct described herein, Shifrin was a cause of Liquid's violations of the reporting provisions of Exchange Act Section 13(a) and Rules 13a-1, 13a-13, and 12b-20 promulgated thereunder.

RESPONDENT

4. **Kenneth D. Shifrin**, age 62, resides in New Jersey. Shifrin served as Liquid's Chief Financial Officer from September 2012 through October 2014. As Liquid's CFO, Shifrin reviewed the drafts of Liquid's periodic reports filed with the Commission and then signed the final versions. Shifrin was licensed as a Certified Public Accountant in New York. That license lapsed in January 2015.

RELATED ENTITIES

5. **Liquid Holdings Group Inc.** was a Delaware corporation that was headquartered in New York City. Liquid's common shares were registered pursuant to Section 12(b) of the Exchange Act and were quoted on the NASDAQ until the stock was delisted in September 2015. Liquid developed and sold software technology to the financial services industry. It filed for bankruptcy Chapter 11 protection in January 2016. Its bankruptcy was converted to Chapter 7 in February 2016. Liquid is currently controlled by a court-appointed bankruptcy trustee and is no longer operating.

6. **QuantX Management LLP** was a regulated UK Limited Liability Partnership with its main offices in London, and offices in New York City. QuantX was a partner-funded trading firm that allocated capital to traders. In Liquid's Form S-1 and S-1/A for its initial public offering, QuantX was disclosed as a related party to Liquid. QuantX ceased operations in December 2014.

FACTS

7. Liquid developed and sold software technology to the financial services industry. Its main product (the “Liquid Platform”) was comprised of three pieces of software, each of which was referred to as a “unit.” Beginning on June 1, 2013, Liquid earned all of its revenue from licensing fees paid by software subscribers (“customers”) on a monthly or quarterly basis (“software revenue”).

8. During the third quarter of 2013 through the second quarter of 2014 (the “relevant period”), Liquid’s largest customer in terms of revenue and unit subscriptions was QuantX. QuantX operated as a trading firm that traded for its own account using the Liquid Platform.

9. In addition to trading in its own accounts, QuantX recruited small hedge funds and individual traders (“QuantX Traders”) to trade using the Liquid Platform. QuantX provided trading capital to the QuantX Traders (“allocation of trading capital”) and required the QuantX Traders to subscribe to, and pay Liquid for, at least one unit of the Liquid Platform. QuantX was to receive a share of the QuantX Traders’ trading profits generated from the capital allocated by QuantX.

10. From the third quarter of 2013 through at least the second quarter of 2014, Liquid did not successfully and independently recruit more than two customers. During the relevant period, virtually all of Liquid’s new customers were QuantX Traders.

11. In the third quarter of 2013, 27 out of 27 Liquid customers were QuantX and QuantX Traders; in the fourth quarter of 2013, 48 out of 48 Liquid customers were QuantX and QuantX Traders; in the first quarter of 2014, 74 out of 76 Liquid customers were QuantX and QuantX Traders; and in the second quarter of 2014, 95 out of 97 Liquid customers were QuantX and QuantX Traders.

12. Shifrin knew that virtually all of Liquid’s customers aside from QuantX were QuantX Traders. He regularly received and reviewed spreadsheets prepared by his staff which contained Liquid’s current customer roster and the units to which each customer subscribed, and which identified QuantX and QuantX Traders. Shifrin knew that QuantX was allocating capital to the QuantX Traders and knew that QuantX required the QuantX Traders to subscribe to the Liquid Platform.

Liquid Made Misleading Disclosures Regarding the Nature and Growth of its Customers Base

13. In its periodic filings from the third quarter of 2013 through the second quarter of 2014, Liquid reported increasing numbers of customers at the end of each quarter, and in these same filings, with the exception of the Form 10-Q for the third quarter of 2013, Liquid stated, “[o]ur ability to expand our customer base is an indicator of our market penetration and the growth of our business.”

14. In its Form 10-K for the period ended December 31, 2013, Liquid stated that “QuantX and our affiliated customers accounted for . . . 10% of our customers.” Liquid’s Form 10-Q for the first quarter of 2014 stated that “QuantX and our affiliated customers accounted for . . . 7% of our customers.” Its Form 10-Q for the second quarter of 2014 stated that “QuantX and our affiliated customers accounted for . . . 3% of our customers.”

15. Liquid publicly disclosed that QuantX “markets [Liquid] to its own members, thereby providing [Liquid] with a source of customer referrals,” and that most of Liquid’s customers were “generated as a result of pre-existing relationships of these customers with our founders and entities related to them,” which included QuantX.

16. However, Liquid did not disclose in these public filings that virtually all of its customers were QuantX Traders. Specifically, Liquid did not disclose in these filings that 90% to 97% of Liquid’s customer base was made up of QuantX Traders or that the QuantX Traders received allocations of capital from QuantX and subscribed to, and paid Liquid for, the Liquid Platform. As a result, Liquid’s disclosures were materially misleading.

17. Shifrin reviewed and signed the SEC filings described above.

QuantX Ceases Operations and Liquid Files for Bankruptcy

18. In December 2014, QuantX ceased operations because of its financial difficulties. On December 23, 2014, Liquid announced that it had ended its relationship with QuantX. By the close of trading on December 24, 2014, Liquid’s share price had dropped 46% from the prior day’s closing price. By January 2015, Liquid had lost virtually all of the QuantX Traders as customers. Liquid filed for Chapter 11 bankruptcy protection in January 2016, which was converted to Chapter 7 in February 2016. Liquid is currently controlled by a court-appointed bankruptcy trustee and is no longer operating.

VIOLATIONS

19. As a result of the conduct described above, Shifrin was a cause of Liquid’s violations of Section 13(a) of the Exchange Act and Rules 13a-1, 13a-13, and 12b-20 promulgated thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act file with the Commission information, documents, and annual and quarterly reports as the Commission may require. These reports must be complete and accurate in all material respects. *See SEC v. Savoy Industries, Inc.*, 587 F.2d 1149, 1165 (D.C. Cir. 1978). No showing of scienter is necessary to establish a violation of Section 13(a) or Rules 13a-1, 13a-13, or 12b-20. *See SEC v. Savoy Indus., Inc.*, 587 F.2d at 1167. In administrative proceedings, the Commission may impose sanctions upon any person who is, was, or would be a cause of a violation, due to an act or omission the person knew or should have known would contribute to such violation.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Shifrin cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Rules 13a-1, 13a-13, and 12b-20 promulgated thereunder.

B. Respondent Shifrin shall pay a civil money penalty of \$25,000 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: \$5,000 within 30 days of the entry of this Order; \$10,000 within 180 days of the entry of this Order; and an additional \$10,000 within one year of the entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. §3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

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 Kenneth L. Shifrin as 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 Steven L. Klawans, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 175 W. Jackson Boulevard, Suite 1450, Chicago, IL 60604.

C. 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 agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent'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 agrees that he 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 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.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary