

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 88724 / April 22, 2020

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4129 / April 22, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19760

In the Matter of

BRIAN M. STORMS

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 Brian M. Storms (“Storms” 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 him 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 of 1934, 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:

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 and its reliance on its largest customer, QuantX Management LLP ("QuantX"). 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, 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. Liquid's largest shareholder ("Shareholder A") loaned millions to QuantX to enable it to pay its software subscription fees to Liquid for the second quarter of 2014. Liquid's Form 10-Q for the second quarter of 2014 stated that QuantX represented 63 percent of Liquid's software revenue for that quarter but failed to disclose that Liquid was reliant on Shareholder A to provide QuantX with the money to pay its software subscription fees to Liquid that quarter.

3. Storms, Liquid's CEO, reviewed the SEC filings described above, and signed and/or certified them.

4. As a result of the conduct described herein, Storms 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

5. **Brian M. Storms**, age 65, resides in New Jersey. Storms served as Liquid's Chief Executive Officer from December 2012 through February 2015, a member of the Board of Directors from December 2012 through September 2015, and as Chairman of the Board from July 2013 until December 2013. Storms reviewed Liquid's periodic reports filed with the Commission and signed and/or certified them as the principal officer of Liquid.

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.

RELATED ENTITIES AND INDIVIDUAL

6. **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.

7. **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, owned in part by entities controlled by Ferdinand and Shareholder A. QuantX ceased operations in December 2014.

8. **Brian L. Ferdinand ("Ferdinand")**, age 42, resides in Syosset, New York. Ferdinand was a founder of Liquid and was Liquid's second-largest shareholder until May 2014. From July 2013 through April 18, 2014, Ferdinand served as a member of Liquid's Board of Directors and was Head of Corporate Strategy. At all times during the relevant period, Ferdinand, through entities controlled by him, had a membership interest in QuantX.

FACTS

9. 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 in 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").

10. 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.

11. 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.

12. Storms knew the facts described above in paragraphs 9 through 11. Storms repeatedly expressed concerns to Liquid personnel about Liquid's continued reliance on QuantX for customers. He knew that virtually all of Liquid's customers aside from QuantX were QuantX Traders. Storms also knew that QuantX was allocating capital to the QuantX Traders and required the QuantX Traders to subscribe to the Liquid Platform.

13. 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. Specifically, 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.

**Liquid Made Misleading Disclosures Regarding
the Nature and Growth of Its Customer Base**

14. 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.”

15. 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.”

16. 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.

17. However, Liquid did not disclose in these public filings that virtually all of the 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.

18. Storms reviewed the SEC filings described above, and signed and/or certified them.

Shareholder A's Loan

19. During the first half of 2014, QuantX continually experienced financial problems. QuantX's and the QuantX Traders' trading, which were QuantX's only sources of revenue, was generally unprofitable. As a result, QuantX received little to no revenue from its operations. Additionally, the decline in Liquid's share price during the second quarter of 2014 impacted the value of the hundreds of thousands of Liquid shares that QuantX owned and pledged as collateral with its prime broker. The combination of QuantX's trading losses and Liquid's falling share price resulted in daily margin calls from QuantX's prime broker during the second quarter. In turn, QuantX reduced its securities holdings and its allocations to the QuantX Traders, further constraining its ability to generate trading profits.

20. Storms learned of QuantX's financial difficulties on June 16 and 17, 2014 and learned that Shareholder A was asked to make a \$2.2 million loan to QuantX. Once it received the loan from Shareholder A, QuantX paid approximately \$1.4 million to Liquid. Of that amount, \$959,370 was used to pay all of QuantX's second quarter of 2014 software bill. The \$959,370 payment comprised 62 percent of Liquid's software revenue for the quarter. Without Shareholder A's loan, QuantX would not have been able to pay Liquid any of the software subscription fees that it owed to Liquid for that quarter.

21. Storms knew that QuantX used the loan from Shareholder A to pay all of its software subscription fees to Liquid for that quarter.

Liquid's Disclosures for the Second Quarter of 2014

22. In its Form 10-Q for the second quarter of 2014, Liquid reported \$1,541,537 in software revenue for the second quarter of 2014, and that "QuantX . . . accounted for 63% of our software services revenue," but this was materially misleading because Liquid failed to disclose its reliance on Shareholder A for all of the funds QuantX used to pay its second quarter of 2014 bill.

23. Storms reviewed and certified the Form 10-Q for the second quarter of 2014.

QuantX Ceases Operations and Liquid Files for Bankruptcy

24. 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

25. As a result of the conduct described above, Storms 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 to 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 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 Storms shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$40,000 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). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

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 Brian M. Storms 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