

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96153 / October 25, 2022

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4359

ADMINISTRATIVE PROCEEDING
File No. 3-21219

In the Matter of

SCOTT A.
WOODWARD, CPA,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS PURSUANT TO
SECTIONS 4C AND 21C OF THE SECURITIES
EXCHANGE ACT OF 1934 AND RULE 102(e)
OF THE COMMISSION'S RULES OF
PRACTICE, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Scott A. Woodward, CPA (“Respondent” or “Woodward”) pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice.²

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others; (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

² Rule 102(e)(1)(iii) provides, in pertinent part, that:

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”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds³ that:

A. SUMMARY

These proceedings arise out of Respondent’s purchase of the common stock of PFSweb, Inc. while in the possession of material non-public information. PFSweb engaged Respondent, a Certified Public Accountant, in January 2021, to provide accounting services in connection with the possible sale of a business unit. In late June 2021, he purchased PFSweb stock, shortly before PFSweb disclosed the pending sale of the unit. At that time, PFSweb had notified its employees to cease trading in its shares. Woodward had signed an agreement to be bound by PFSweb’s trading policies, and to not trade in violation of the federal securities laws. Woodward later sold the stock, for a profit of \$21,326.36.

B. RESPONDENT

Scott A. Woodward, 47, of Dallas, Texas, is a Certified Public Accountant licensed by the Texas State Board of Public Accountancy since 1999. PFSweb retained him to provide contract accounting services, through Woodward & Co. CPA, PLLC, a professional corporation Woodward owned.

C. RELATED ENTITY

PFSweb, Inc. (now PFScommerce.com) is a Section 12(b) reporting company with offices in Allen, Texas. Its stock is listed on Nasdaq. PFSweb has managed customer-shopping services for major branded manufacturers through its LiveArea unit, which provided ecommerce services, and its PFS Operations unit, which provided logistics and customer-fulfillment services.

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

³ 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.

D. FACTS

1. In January 2021, PFSweb engaged Woodward, through his professional corporation, to provide accounting services relating to the company's plan to sell LiveArea and to assist in preparing reports filed with the Commission. Woodward had signed an agreement to maintain the confidentiality of information he obtained in the engagement and not to violate federal laws regarding trading in PFSweb securities while in the possession of material non-public information. Woodward also agreed to comply with any policies and procedures restricting PFSweb officers, directors, employees, and contractors from trading in the company's securities. PFSweb also warned Woodward that the planned LiveArea sale was material non-public information. For PFSweb's 2020 fiscal year, LiveArea generated \$85.8 million of PFSweb's total revenues of \$342.5 million, or 25%.

2. On May 10, 2021, PFSweb notified its personnel, including Woodward, that their window for trading in the company's securities would open from May 10 through June 14, 2021. Thereafter, their window for buying or selling PFSweb securities would remain closed until August 2021. Regardless, on June 28 and 29, 2021, after the trading window closed, Woodward purchased 4,970 shares of PFSweb stock split among four accounts he controlled. At the open of trading on July 6, 2021, PFSweb issued a press release, publicly announcing that it had agreed to sell LiveArea to another company for \$250 million.

3. On Friday, July 2, 2021, in advance of the three-day July 4 holiday weekend, PFSweb's stock had closed at \$7.57, on a volume of 30,662 shares. On Tuesday, July 6, 2021, the day of the announcement, the stock closed at \$10.80 on a volume of 4,072,206 shares. On Wednesday, July 7, 2021, the stock closed at \$11.78, on a volume of 1,777,312 shares. Through September, the stock generally appreciated in price, trading for as much as \$13.48 per share. Woodward made sales of the stock he purchased while in the possession of material non-public information, from July 20, 2021 through September 24, 2021, realizing \$21,326.36 in profit.

4. On December 10, 2021, Woodward signed a letter from PFSweb terminating his retention and acknowledging that he had purchased the stock while in possession of material non-public information concerning the planned LiveArea sale and while he was restricted from trading in PFSweb securities.

E. VIOLATIONS

Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit fraud in connection with the purchase or sale of any security. A person violate Section 10(b) of the Exchange Act and Rule 10b-5 thereunder when that person engages in a purchase or sale of a security: (i) on the basis of material, nonpublic information; (ii) in breach of a fiduciary duty or a similar duty arising out of a relationship of trust or confidence; and (iii) with scienter. *Dirks v. SEC*, 463 U.S. 646, 653-54 (1983); *Chiarella v. United States*, 445 U.S. 222, 227-35 (1980).

F. FINDINGS

1. Based on the foregoing, the Commission finds that Respondent willfully violated

Section 10(b) of the Exchange and Rule 10b-5 thereunder.

2. The disgorgement and prejudgment interest ordered in paragraph IV.N. is consistent with equitable principles and does not exceed Respondent's net profits from his violations. Returning the money to Respondent would be inconsistent with equitable principles. Therefore, in these circumstances, distributing disgorged funds to the U.S. Treasury is the most equitable alternative. The disgorgement and prejudgment interest ordered in paragraph IV.N. shall be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

IV.

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

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Respondent shall cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent is denied the privilege of appearing or practicing before the Commission as an accountant.

C. After five years from the date of the Order, Respondent may request that the Commission consider Respondent's reinstatement by submitting an application to the attention of the Office of the Chief Accountant.

D. In support of any application for reinstatement to appear and practice before the Commission as a preparer or reviewer, or a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act, Respondent shall submit a written statement attesting to an undertaking to have Respondent's work reviewed by the independent audit committee of any public company for which Respondent works or in some other manner acceptable to the Commission, as long as Respondent practices before the Commission in this capacity and will comply with any Commission or other requirements related to the appearance and practice before the Commission as an accountant.

E. In support of any application for reinstatement to appear and practice before the Commission as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934 ("Exchange Act"), as a preparer or reviewer, or as a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission, Respondent shall submit a statement prepared by the audit committee(s) with which Respondent will be associated, including the following information:

1. A summary of the responsibilities and duties of the specific audit committee(s) with which Respondent will be associated;

2. A description of Respondent's role on the specific audit committee(s) with which Respondent will be associated;
3. A description of any policies, procedures, or controls designed to mitigate any potential risk to the Commission by such service;
4. A description relating to the necessity of Respondent's service on the specific audit committee; and
5. A statement noting whether Respondent will be able to act unilaterally on behalf of the Audit Committee as a whole.

F. In support of any application for reinstatement to appear and practice before the Commission as an independent accountant (auditor), Respondent must be associated with a public accounting firm registered with the Public Company Accounting Oversight Board (the "PCAOB") and Respondent shall submit the following additional information:

1. A statement from the public accounting firm (the "Firm") with which Respondent is associated, stating that the firm is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002;
2. A statement from the Firm with which the Respondent is associated that the Firm has been inspected by the PCAOB and that the PCAOB did not identify any criticisms of or potential defects in the Firm's quality control system that would indicate that Respondent will not receive appropriate supervision; and
3. A statement from Respondent indicating that the PCAOB has taken no disciplinary actions against Respondent since seven (7) years prior to the date of the Order other than for the conduct that was the basis for the Order.

G. In support of any application for reinstatement, Respondent shall provide documentation showing that Respondent is currently licensed as a certified public accountant ("CPA") and that Respondent has resolved all other disciplinary issues with any applicable state boards of accountancy. If Respondent is not currently licensed as a CPA, Respondent shall provide documentation showing that Respondent's licensure is dependent upon reinstatement by the Commission.

H. In support of any application for reinstatement, Respondent shall also submit a signed affidavit truthfully stating, under penalty of perjury:

1. That Respondent has complied with the Commission suspension Order, and with any related orders and undertakings, including any orders in this proceeding, or any related Commission proceedings, including any orders requiring payment of disgorgement or penalties;

2. That Respondent undertakes to notify the Commission immediately in writing if any information submitted in support of the application for reinstatement becomes materially false or misleading or otherwise changes in any material way while the application is pending;
3. That Respondent, since the entry of the Order, has not been convicted of a felony or a misdemeanor involving moral turpitude that would constitute a basis for a forthwith suspension from appearing or practicing before the Commission pursuant to Rule 102(e)(2);
4. That Respondent, since the entry of the Order:
 - (a) has not been charged with a felony or a misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice, except for any charge concerning the conduct that was the basis for the Order;
 - (b) has not been found by the Commission or a court of the United States to have committed a violation of the federal securities laws, and has not been enjoined from violating the federal securities laws, except for any finding or injunction concerning the conduct that was the basis for the Order;
 - (c) has not been charged by the Commission or the United States with a violation of the federal securities laws, except for any charge concerning the conduct that was the basis for the Order;
 - (d) has not been found by a court of the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, or any bar thereof to have committed an offense (civil or criminal) involving moral turpitude, except for any finding concerning the conduct that was the basis for the Order; and
 - (e) has not been charged by the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, civilly or criminally, with having committed an act of moral turpitude, except for any charge concerning the conduct that was the basis for the Order.
5. That Respondent's conduct is not at issue in any pending investigation of the Commission's Division of Enforcement, the PCAOB's Division of Enforcement and Investigations, any criminal law enforcement investigation, or any pending proceeding of a State Board of Accountancy, except to the extent that such conduct concerns that which was the basis for the Order.

6. That Respondent has complied with any and all orders, undertakings, or other remedial, disciplinary, or punitive sanctions resulting from any action taken by any State Board of Accountancy, or other regulatory body.

I. Respondent shall also provide a detailed description of:

1. Respondent's professional history since the imposition of the Order, including

(a) all job titles, responsibilities and role at any employer;

(b) the identification and description of any work performed for entities regulated by the Commission, and the persons to whom Respondent reported for such work; and

2. Respondent's plans for any future appearance or practice before the Commission.

J. The Commission may conduct its own investigation to determine if the foregoing attestations are accurate.

K. If Respondent provides the documentation and attestations required in this Order and the Commission (1) discovers no contrary information therein, and (2) determines that Respondent truthfully and accurately attested to each of the items required in Respondent's affidavit, and the Commission discovers no information, including under Paragraph J, indicating that Respondent has violated a federal securities law, rule or regulation or rule of professional conduct applicable to Respondent since entry of the Order (other than by conduct underlying Respondent's original Rule 102(e) suspension), then, unless the Commission determines that reinstatement would not be in the public interest, the Commission shall reinstate the respondent for cause shown.

L. If Respondent is not able to provide the documentation and truthful and accurate attestations required in this Order or if the Commission has discovered contrary information, including under Paragraph J, the burden shall be on the Respondent to provide an explanation as to the facts and circumstances pertaining to the matter setting forth why Respondent believes cause for reinstatement nonetheless exists and reinstatement would not be contrary to the public interest. The Commission may then, in its discretion, reinstate the Respondent for cause shown.

M. If the Commission declines to reinstate Respondent pursuant to Paragraphs K and L, it may, at Respondent's request, hold a hearing to determine whether cause has been shown to permit Respondent to resume appearing and practicing before the Commission as an accountant.

N. Respondent shall pay disgorgement of \$21,326.36, prejudgment interest of \$555.59 and civil penalties of \$21,326.36, plus post order interest, to the Securities and Exchange Commission. Payment shall be made in the following installments:

30 days from the entry of the order	\$4,320.83
180 days from the entry of the order	\$19,443.74
360 days from the entry of the order	Remaining principal and interest

Payments shall be applied first to post order interest, which accrues pursuant to SEC Rule of Practice 600 and/or 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.

- O. 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 Scott Woodward 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 Eric Werner, Associate Director, Division of Enforcement, Securities and Exchange Commission, Fort Worth Regional Office, 801 Cherry Street, Suite 1900, Fort Worth, TX 76102.

P. 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