

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98191 / August 22, 2023

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4445 / August 22, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21575

In the Matter of

DAVID D. BROOKS, CPA,

Respondent.

**ORDER INSTITUTING 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 David D. Brooks (“Respondent” or “Brooks”) pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.²

II.

In anticipation of the institution of these proceedings, Brooks has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose

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)(ii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

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, Brooks consents to the entry of this Order Instituting 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 ("Order"), as set forth below.

III.

On the basis of this Order and Brooks's Offer, the Commission finds³ that:

A. SUMMARY

1. This matter involves repeated instances of improper professional conduct by David D. Brooks, a certified public accountant and audit partner of D. Brooks and Associates CPA's P.A. ("DBA") based on his multiple failures to conduct six annual audits of the financial statements of five public issuers in accordance with Public Company Accounting Oversight Board ("PCAOB") standards. Those issuers are referred to herein as Issuer A through Issuer E (collectively, "Audit Clients").

2. From at least February 2018 through March 2019 ("Relevant Period"), Brooks failed to comply with the professional standards of the PCAOB in conducting audits of the Audit Clients because he did not, for one or more of the Audit Clients: (i) obtain sufficient appropriate audit evidence; (ii) assemble a complete and final set of audit documentation (work papers); (iii) appropriately document audit work; and (iv) exercise due professional care. Brooks also caused DBA to issue five audit reports (one of which covered two annual audits for the Audit Client) that inaccurately stated that the audits were performed in accordance with PCAOB standards. Each of these audit reports was filed with the Commission along with the Audit Clients' respective Forms 10-K. As a result, Brooks violated Rule 2-02(b)(1) of Regulation S-X and engaged in improper professional conduct within the meaning of Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

B. RESPONDENT

3. **Brooks**, age 52, resides in Palm Beach Gardens, Florida, and is a certified public accountant licensed in Florida and Massachusetts. Brooks founded DBA, a PCAOB-registered firm, in 2009. He is DBA's sole equity partner and has been its managing shareholder since the firm's inception. Brooks was the engagement partner for all of the audits at issue.

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.

C. OTHER RELEVANT ENTITIES

4. **DBA** is a Florida corporation headquartered in Palm Beach Gardens, Florida. It was formed by Brooks in 2009, and has been registered with the PCAOB since December 2009. During the Relevant Period, DBA had six employees, three of whom were partners. It provides audit and valuation services, financial statement preparation, and consulting services.

5. **Issuer A** is a Nevada corporation with its principal place of business in Wichita, Kansas. Throughout the Relevant Period, its common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and quoted on the NYSE American – NASDAQ. DBA audited Issuer A's financial statements for the year ended December 31, 2018, which were included in Issuer A's Form 10-K filed with the Commission. Brooks was the engagement partner on the FY 2018 audit and signed and authorized the issuance of an audit report that stated that DBA had conducted its audit in accordance with PCAOB standards.

6. **Issuer B** is a Nevada corporation with its principal place of business in Carson City, Nevada. Throughout the Relevant Period, its common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was quoted on the NASDAQ Stock Market. DBA audited Issuer B's financial statements for the years ended June 30, 2017 and 2018, which were included in Issuer B's Form 10-K filed with the Commission. Brooks was the engagement partner on both audits and signed and authorized the issuance of an audit report that stated that DBA had conducted its audits in accordance with PCAOB standards.

7. **Issuer C** is a Nevada corporation with its principal place of business in Lake Park, Florida. Throughout the Relevant Period, its common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was quoted on OTC Markets. DBA audited Issuer C's financial statements for the year ended December 31, 2017, which were included in Issuer C's Form 10-K filed with the Commission. Brooks was the engagement partner on the FY 2017 audit and signed and authorized the issuance of an audit report that stated that DBA had conducted its audit in accordance with PCAOB standards.

8. **Issuer D** is a Nevada corporation with its principal place of business in Roseville, California. Throughout the Relevant Period, its common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was quoted on OTCQB operated by the OTC Markets Group. DBA audited Issuer D's financial statements for the year ended December 31, 2017, which were included in Issuer D's Form 10-K filed with the Commission. Brooks was the engagement partner on the FY 2017 audit and signed and authorized the issuance of an audit report that stated that DBA had conducted the audit in accordance with PCAOB standards.

9. **Issuer E** is a Nevada corporation with its principal place of business in Niagara Falls, New York. Throughout the Relevant Period, its common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was quoted on OTCQB operated by the OTC Markets Group. DBA audited Issuer E's financial statements for the year ended December 31, 2017, which were included in Issuer E's Form 10-K filed with the Commission. Brooks was the engagement partner on the FY 2017 audit and signed and authorized the issuance

of an audit report that stated that DBA had conducted the audit in accordance with PCAOB standards.

D. FACTS

10. During the Relevant Period, Brooks violated various PCAOB auditing standards, in connection with the FY 2018 audit of Issuer A, the FY 2017 and 2018 audits of Issuer B, the FY 2017 audit of Issuer C, the FY 2017 audit of Issuer D, and the FY 2017 audit of Issuer E (“Audits”), as summarized in the table below. Brooks was the engagement partner for each of these Audits.

		Issuer A	Issuer B	Issuer C	Issuer D	Issuer E
Filing and Fiscal Year		Form 10-K Year Ended December 31, 2018	Form 10-K Years Ended June 30, 2017 and 2018	Form 10-K Year Ended December 31, 2017	Form 10-K Year Ended December 31, 2017	Form 10-K Year Ended December 31, 2017
Date of DBA’s audit report		March 28, 2019	October 4, 2018	April 16, 2018	April 17, 2018	April 2, 2018
AS 1015	Due Professional Care in the Performance of Work	x	x	x	x	x
AS 1105	Audit Evidence	x	x	x	x	x
AS 1210	Using the Work of a Specialist	x	x			
AS 1215	Audit Documentation	x	x	x	x	x
AS 2415	Consideration of an Entity’s Ability to Continue as a Going Concern				x	x
AS 2810	Evaluating Audit Results	x	x	x	x	x

Auditing Standard 1215, Audit Documentation

11. During the performance of the Audits, Brooks violated PCAOB auditing standard (“AS”) 1215, *Audit Documentation*, by: (i) repeatedly failing to assemble for retention a complete and final set of audit documentation (work papers); (ii) permitting additions and modifications to the work papers after the documentation completion date without the required information (such as the reasons for the additions and modifications); (iii) repeatedly failing to document audit work, including his review; and (iv) failing to prepare an engagement completion document. For five of the six Audits, Brooks never assembled complete and final sets of audit documentation. For one of the Audits, Brooks assembled the complete and final set of audit documentation for retention days after the documentation completion date. For each of the Audits, Brooks performed certain audit work that he failed to document. During one of the Audits, Brooks never prepared an engagement completion document. For these Audits, Brooks was the person at DBA responsible for ensuring that the audit documentation complied with the requirements of AS 1215.

Auditing Standard 1105, Audit Evidence

12. Brooks failed to obtain sufficient appropriate audit evidence in accordance with AS 1105.04, which requires an auditor to “plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.” During one of the Audits, Brooks violated AS 1105.04 because the engagement team’s testing of a sample of operating expenses did not provide sufficient appropriate audit evidence. Also, during that Audit, despite assessing income taxes as a significant audit area, Brooks did not perform audit procedures for the income tax liability or income tax expense. In another Audit, after Brooks assessed property, plant, and equipment as a significant audit area with a high risk of material misstatement of impairment, Brooks did not document any audit procedures to evaluate impairment.

Auditing Standard 1210, Using the Work of a Specialist

13. Brooks also failed to obtain sufficient appropriate audit evidence in accordance with AS 1210 which requires, among other things, an auditor to evaluate the professional qualifications of a specialist and to make appropriate tests of data provided to a specialist. During the Audits of two Audit Clients, each engaged specialists in connection with intangible assets and goodwill. There is no audit documentation or any other contemporaneous evidence that any procedures concerning the evaluation of the professional qualifications of the specialists and testing of the data provided to the specialists were performed.

Auditing Standard 2415, Consideration of an Entity’s Ability to Continue as a Going Concern

14. Brooks further failed to obtain sufficient appropriate audit evidence in accordance with AS 2415 which requires that when an auditor believes there is substantial doubt about the ability of the entity to continue as a going concern for a reasonable period of time, the auditor should document various items, including the auditing procedures performed and evidence obtained to evaluate the significant elements of management’s plans and the auditor’s conclusions. During two of the Audits, Brooks concluded that there was substantial doubt about the ability of the Audit Clients to continue as a going concern and he included such in the respective audit reports. Brooks did not prepare the required documentation prescribed by AS 2415 such as documentation of the auditing procedures performed and evidence obtained to evaluate the significant elements of management’s plans and the auditor’s conclusions. There is no audit documentation or other contemporaneous evidence of any procedures performed.

Auditing Standard 2810, Evaluating Audit Results

15. Brooks failed to obtain sufficient audit evidence in accordance with AS 2810 which states that as part of evaluating audit results, the auditor determines whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements. Brooks violated AS 2810 during the Audits because he concluded that sufficient appropriate audit evidence was obtained to support his opinion on the financial statements, when, in fact, he failed to gather such evidence. For two of the Audits, there is no evidence that Brooks performed audit procedures required by AS 1210 to, among other things, evaluate the professional qualifications of the specialists and to make appropriate tests of data provided to specialists for intangible assets and

goodwill, both of which were significant accounts. During a third Audit, Brooks failed to audit certain categories of operating expenses that were material to the income statement. For a fourth Audit, Brooks failed to audit the income tax liability and related expense. During a fifth Audit, Brooks failed to perform audit procedures to evaluate impairment of property, plant and equipment which he had identified as a high risk of material misstatement. During a sixth Audit, there is no evidence that Brooks performed audit procedures to evaluate the impairment of intangible assets.

Auditing Standard 1015, Due Professional Care in the Performance of Work

16. In connection with the Audits described herein, Brooks failed to exercise due professional care. AS 1015 states that auditors are required to exercise due professional care in the planning and performance of the audit and the preparation of the report. Brooks failed to exercise due professional care as required by AS 1015 while performing the Audits.

VIOLATIONS

17. As a result of the conduct described above, Brooks engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice. Section 4C(a)(2) and Rule 102(e)(1)(ii) provide, in pertinent part, that the Commission may censure or deny, temporarily or permanently, the privilege of appearing or practicing before the Commission to any person who is found by the Commission to have engaged in improper professional conduct. With respect to persons licensed to practice as accountants, "improper professional conduct" includes either of the following two types of negligent conduct: (1) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted; or (2) repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission. Rule 102(e)(1)(iv)(B). As discussed above, Brooks engaged in repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards.

18. For the audits of Issuers B, C, D, and E discussed above, Rule 2-02(b)(1) mandated that an accountant's report "state whether the audit was made in accordance with generally accepted auditing standards..." Rule 2-01(b)(1) was amended and beginning on November 5, 2018, it requires an accountant's report to state "the applicable professional standards under which the audit was conducted." 17 C.F.R. § 210.2-02(b)(1). The audit report for Issuer A was issued after Rule 2-02(b)(1) was revised. An auditor violates Rule 2-02(b)(1) if it issues a report stating it has conducted its audit in accordance with the PCAOB standards when it has not. As a result of the conduct described above, DBA violated and Brooks caused DBA's violations of Rule 2-02(b)(1) of Regulation S-X.

FINDINGS

19. Based on the foregoing, the Commission finds that Brooks caused DBA's violations of Rule 2-02(b)(1) of Regulation S-X.

20. Based on the foregoing, the Commission finds that Brooks engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii).

IV.

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

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

A. Brooks shall cease and desist from committing or causing any violations and any future violations of Rule 2-02(b)(1) of Regulation S-X.

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

C. After five years from the date of the Order, Brooks may request that the Commission consider Brooks'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, Brooks shall submit a written statement attesting to an undertaking to have Brooks's work reviewed by the independent audit committee of any public company for which Brooks works or in some other manner acceptable to the Commission, as long as Brooks 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 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, Brooks shall submit a statement prepared by the audit committee(s) with which Brooks will be associated, including the following information:

1. A summary of the responsibilities and duties of the specific audit committee(s) with which Brooks will be associated;
2. A description of Brooks's role on the specific audit committee(s) with which Brooks 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 Brooks's service on the specific audit committee; and
5. A statement noting whether Brooks 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) before the Commission, Brooks must be associated with a public accounting firm registered with the PCAOB and Brooks shall submit the following additional information:

1. A statement from the public accounting firm (the "Firm") with which Brooks 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 Brooks 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 Brooks will not receive appropriate supervision; and
3. A statement from Brooks indicating that the PCAOB has taken no disciplinary actions against Brooks 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, Brooks shall provide documentation showing that Brooks is currently licensed as a certified public accountant ("CPA") and that Brooks has resolved all other disciplinary issues with any applicable state boards of accountancy. If Brooks is not currently licensed as a CPA, Brooks shall provide documentation showing that Brooks's licensure is dependent upon reinstatement by the Commission.

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

1. That Brooks has complied with the Commission suspension Order, and with any related orders and undertakings, including any orders in the *Matter of David D. Brooks, CPA*, or any related Commission proceedings, including any orders requiring payment of disgorgement or penalties;
2. That Brooks 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 Brooks, 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 Brooks, 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 Brooks'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 Brooks 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. Brooks shall also provide a detailed description of:
1. Brooks'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 Brooks reported for such work; and

2. Brooks'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 Brooks provides the documentation and attestations required in this Order and the Commission (1) discovers no contrary information therein, and (2) determines that Brooks truthfully and accurately attested to each of the items required in Brooks's affidavit, and the Commission discovers no information, including under Paragraph J, indicating that Brooks has violated a federal securities law, rule or regulation or rule of professional conduct applicable to Brooks since entry of the Order (other than by conduct underlying Brooks'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 Brooks for cause shown.

L. If Brooks 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 Brooks to provide an explanation as to the facts and circumstances pertaining to the matter setting forth why Brooks 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 Brooks for cause shown.

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

N. Brooks shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$50,000 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) Brooks may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Brooks 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) Brooks 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 David D. Brooks 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, Division of Enforcement, Securities and Exchange Commission, 801 Brickell Avenue, Suite 1950, Miami, FL 33131.

O. 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, Brooks 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 Brooks's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Brooks 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 Brooks 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 Brooks, and further, any debt for civil penalty or other amounts due by Brooks 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 Brooks 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