

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98551 / September 27, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21736

In the Matter of

eXp World Holdings, Inc.,

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 eXp World Holdings, Inc. (“eXp” 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, Respondent consents to the entry of this 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 (“Order”), as set forth below.

III.

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

Summary

1. These proceedings arise out of violations of the beneficial ownership reporting requirements of the federal securities laws.
2. Section 16(a) of the Exchange Act and the rules promulgated thereunder require officers and directors of a company with a class of equity security registered under Section 12 of the Exchange Act, and any beneficial owners of greater than 10% of such class (collectively, "insiders"), to file certain reports of securities holdings and transactions. Section 16(a) was motivated by a belief that "the most potent weapon against the abuse of inside information is full and prompt publicity" and by a desire "to give investors an idea of the purchases and sales by insiders which may in turn indicate their private opinion as to prospects of the company." H.R. Rep. 73-1383, at 13, 24 (1934). Reflecting this informational purpose, the obligation to file applies irrespective of profits or the filer's reasons for engaging in the transactions. The Sarbanes-Oxley Act of 2002 and Commission implementing regulations accelerated the reporting deadline for most transactions to two business days and mandated that all reports be filed electronically on EDGAR to facilitate rapid dissemination to the public.
3. Although insiders remain responsible for the timeliness and accuracy of their required Section 16(a) reports, the Commission has encouraged the practice of many issuers to "help their [officers and directors] or submit the [] filings on their behalf . . . [in order] to facilitate accurate and timely filing." Mandated Electronic Filing and Website Posting for Forms 3, 4 and 5, SEC Release No. 34-47809 (May 7, 2003), 68 Fed. Reg. 25788, 25789 (May 13, 2003).
4. Since 2014, Respondent has been a reporting issuer and its insiders have been required to file Section 16(a) reports. On numerous occasions, Respondent's officers and directors violated Section 16(a) by failing to timely file required reports. Respondent was a cause of many of the Section 16(a) violations by its officers and directors as a result of Respondent's negligence in performing certain tasks it voluntarily agreed to undertake in connection with the preparation and filing of Section 16(a) reports on their behalf.

Respondent

5. eXp is a Delaware corporation with its principal place of business in Washington. eXp's common stock is and has been at all relevant times registered with the Commission under Section 12 of the Exchange Act and trades on the NASDAQ (ticker: EXPI). eXp is required to file

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.

annual reports on Form 10-K pursuant to Section 13(a) of the Exchange Act and Rule 13a-1 thereunder.

Applicable Legal Framework

6. Pursuant to Section 16(a) and Rule 16a-3, insiders are required to file initial statements of holdings on Form 3 and keep this information current by reporting transactions on Forms 4 and 5. Specifically, within 10 days after becoming an insider, or on or before the effective date of the Section 12 registration of the class of equity security, an insider must file a Form 3 report disclosing his or her beneficial ownership of all securities of the issuer. To keep this information current, insiders must file Form 4 reports disclosing transactions resulting in a change in beneficial ownership within two business days following the execution date of the transaction, except for limited types of transactions eligible for deferred reporting. Transactions required to be reported on Form 4 include purchases and sales of securities, exercises and conversions of derivative securities, and grants or awards of securities from the issuer. In addition, insiders are required to file a Form 5 report within 45 days after the issuer's fiscal year-end to report any transactions or holdings that should have been, but were not, reported on Form 3 or 4 during the issuer's most recent fiscal year and any transactions eligible for deferred reporting (unless the corporate insider has previously reported all such transactions). Insiders are required to file the reports electronically on EDGAR. There is no state of mind requirement for violations of Section 16(a) and the rules thereunder.²

Respondent Was a Cause of Certain Violations of Section 16(a) by its Insiders

7. Although the Commission encourages the practice of many issuers to assist insiders in complying with Section 16(a) filing requirements, issuers who voluntarily accept certain responsibilities and then act negligently in the performance of those tasks may be liable as a cause of Section 16(a) violations by insiders.

8. Since at least 2018, Respondent has voluntarily agreed with its officers and directors to perform certain tasks in connection with the filing of Section 16(a) reports on their behalf, including the preparation and filing of all such reports for which Respondent had timely notification of the required information concerning the transactions. However, on multiple occasions, Respondent acted negligently in its performance of such tasks and was a cause of eXp's

² See, e.g., SEC v. e-Smart Technologies, Inc., 82 F. Supp. 3d 97, 104 (D.D.C. 2015) (scienter is not required to establish a violation of Section 16(a) of the Exchange Act); cf. Oppenheimer & Co., Inc., 47 SEC 286, 1980 WL 26901, at *2 (May 19, 1980) ("We have previously held that the failure to make a required report, even though inadvertent, constitutes a willful violation"); SEC Release No. 34-47809, 68 Fed. Reg. at 25792 (noting that an issuer's eligibility for temporary relief from disclosing Forms 4 filed one business day late by its insiders "does not change the fact that any Form 3, 4 or 5 filed later than the applicable due date violates Section 16(a)") (emphasis added). Negligence is sufficient to establish liability for causing such violations. See KPMG Peat Marwick LLP, 74 SEC Docket 357, 2001 WL 47245, at *19 (Jan. 19, 2001) ("[N]egligence is sufficient to establish 'causing' liability under Exchange Act Section 21C(a) ... in cases in which a person is alleged to 'cause' a primary violation that does not require scienter.").

officers and directors failing to file Section 16(a) reports on a timely basis. For instance, Respondent made disclosures in its annual proxy statements filed in 2021 and 2022 relating to Section 16(a) compliance by its insiders during fiscal years 2020 and 2021 that named several officers and directors as having late-filed numerous reports and cited that they were “due to administrative oversight.” The procedures and practices employed by Respondent were insufficient to the extent that those practices resulted in the recurrent failure to meet the two-business day filing deadline.

9. For example, Respondent’s officers and directors in the aggregate filed untimely Section 16(a) reports for reportable transactions that occurred on more than 90 dates between January 2018 and March 2022. These transactions primarily related to stock awards, as well as certain option exercises and stock purchases or sales. For virtually all of these late-reported transactions, Respondent had received timely notification of or otherwise possessed the necessary information for such filings but failed to prepare and file the reports within the required time frame.

10. As a result of the conduct described above, Respondent was a cause of certain violations of Section 16(a) of the Exchange Act and Rule 16a-3 thereunder by Respondent’s insiders.

Respondent’s Remedial Efforts

11. In determining to accept the Offer, the Commission considered certain remedial acts undertaken by Respondent and cooperation afforded to Commission staff.

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 16(a) of the Exchange Act and Rule 16a-3 promulgated thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$115,000 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 eXp World Holdings, Inc. 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 Thomas Smith, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004.

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, 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'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 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 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.

By the Commission.

Vanessa A. Countryman
Secretary