

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11283 / May 3, 2024

SECURITIES EXCHANGE ACT OF 1934
Release No. 100053 / May 3, 2024

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4500 / May 3, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-21926

In the Matter of

**BF BORGERS CPA PC,
and BENJAMIN F.
BORGERS, CPA,**

Respondents.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT OF
1933, 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 BF Borgers CPA PC (“BF Borgers”) and Benjamin F. Borgers, CPA (“Borgers”) (collectively “Respondents”) pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 4C¹ and 21C of

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

the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice (“CRP”).²

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, 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 Respondents’ Offers, the Commission finds³ that:

A. SUMMARY

1. This matter involves the deliberate and systematic failure to audit and review public company and SEC-registered broker-dealer clients’ financial statements in accordance with Public Company Accounting Oversight Board (“PCAOB”) standards by PCAOB-registered auditing firm BF Borgers, and its owner and managing member, certified public accountant Borgers, and their fraudulent issuance of audit reports falsely representing that they had done so from at least January 2021 through at least June 2023.

2. Investors regularly rely on the financial statements of public companies when making investment decisions. This reliance is based on important safeguards built into the system, including the requirement that a PCAOB-registered accounting firm audit those financial

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.

³ The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

statements annually and review them on a quarterly basis in accordance with PCAOB standards. Further, SEC-registered broker-dealers are required to file annually with the Commission financial statements audited by a PCAOB-registered accounting firm in accordance with PCAOB standards.

3. Among other things, PCAOB Auditing Standard 1220: *Engagement Quality Review* (“AS 1220”) requires audits and reviews of interim financial information to be approved by an engagement quality reviewer (“EQR”). Despite this clear requirement, Respondents failed to obtain an EQR to provide a concurring review and approval on audits and reviews of financial statements incorporated in at least 1,625 public filings and disclosures from January 2021 through June 2023, including over 336 SEC issuer annual filings, 1,039 SEC issuer quarterly filings, 180 SEC registration statements, 45 SEC-registered broker-dealer annual filings, and 25 OTC company annual report disclosures, representing at least 75% of their clients’ public filings and disclosures incorporating such audits and reviews.

4. Respondents also violated PCAOB Auditing Standards 1201: *Supervision of the Audit Engagement* (“AS 1201”) and 1215: *Audit Documentation* (“AS 1215”) by failing both to adequately supervise and review the work of the engagement teams and to ensure that the workpapers properly documented that work on many of these engagements. Among other things, as engagement partner, Borgers failed to conduct or participate in audit planning meetings and to review important workpapers for many audits, including workpapers relating to his purported supervision and review of the engagement team’s work and conclusions. Borgers also authorized BF Borgers audit staff and contractors to copy audit workpapers from previous audits as the final workpapers for new audit engagements. As a result, BF Borgers’ workpapers falsely documented the performance of audit and review procedures and approvals that had not occurred, including falsely representing that both Borgers, as the engagement partner, and an EQR reviewed and approved audits and reviews of interim financial information.

5. Despite the failures above, Respondents falsely represented in engagement letters to their clients that the audits and quarterly reviews of their financial statements would be conducted in accordance with PCAOB standards, and, with respect to the audits, issued reports falsely certifying that the audits were completed in accordance with those standards.

6. As a result of the above, BF Borgers engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and CRP Rule 102(e)(1)(ii), violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Rules 2-02(b)(1) and 2-06 of Regulation S-X, and caused violations of Sections 13(a), 15(d), 17(a), and 17(e) of the Exchange Act and Rules 13a-1, 13a-13, 15d-1, 15d-13, and 17a-5 thereunder, and Borgers engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and CRP Rule 102(e)(1)(ii), violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Rule 2-06 of Regulation S-X, and caused violations of Sections 13(a), 15(d), 17(a), and 17(e) of the Exchange Act and Rules 13a-1, 13a-13, 15d-1, 15d-13, and 17a-5 thereunder, and Rule 2-02(b)(1) of Regulation S-X in connection with their audits and/or quarterly reviews of hundreds of public companies and broker-dealers registered with the Commission.

B. RESPONDENTS

7. BF Borgers is a Colorado professional corporation registered with the PCAOB and located in Lakewood, Colorado.

8. Borgers is the managing partner and 100% owner of BF Borgers and is a certified public accountant licensed in the state of Colorado.

C. FACTS

9. From January 2021 through June 2023, BF Borgers had 350 clients who were required under the Commission's rules and regulations to have their financial statements audited and/or reviewed by a PCAOB-registered accounting firm in accordance with PCAOB standards and to incorporate those financial statements into filings made with the Commission.

10. Borgers served as the engagement partner for the audit and review services BF Borgers performed for the overwhelming majority of these clients.

11. Respondents represented in engagement letters to these clients that the audits and quarterly reviews of their financial statements would be conducted in accordance with PCAOB standards.

12. Contrary to these representations, Respondents failed to conduct audits and/or quarterly reviews for these clients in accordance with PCAOB standards, and, with respect to the audits, issued reports falsely certifying that the audits were completed in accordance with those standards.

13. Respondents knew that the BF Borgers audit reports containing the false certifications were required to be and would be included in the clients' required filings with the Commission which, for issuers, would be publicly available to investors. Respondents also knew that (i) certain other BF Borgers clients made public disclosures via the website maintained by OTC Markets, (ii) those disclosures would include BF Borgers audit reports containing false certifications, and (iii) those disclosures would be publicly available to investors.

Respondents Failed To Properly Prepare and Retain Audit Documentation

14. Pursuant to PCAOB Auditing Standard 1215: *Audit Documentation* ("AS 1215"), audit documentation (the "workpapers") provides the written record of the basis for the auditor's conclusions. Audit documentation also facilitates the planning, performance, and supervision of the audit engagement. AS 1215.02.

15. AS 1215 requires detailed and accurate written audit and review documentation and further provides that the auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions. Under this standard, the documentation must clearly demonstrate that the work was in fact performed and must contain

sufficient information to enable an experienced auditor, having no previous connection with the engagement to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and to determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review. AS 1215.06.

16. Borgers instructed BF Borgers audit staff and contractors to copy workpapers from previous engagements as the final workpapers for new engagements. Specifically, audit staff updated the balance sheet date and date of completion on the workpapers, but all of the other information indicating the substantive work done on the engagement was simply copied from the corresponding workpaper from the previous audit or quarterly review. As a result, BF Borgers' workpapers falsely documented the performance of audit and review procedures and approvals that had not occurred, including falsely representing that both Borgers, as the engagement partner, and an EQR reviewed and approved the workpapers.

17. For example, each engagement had a workpaper called "Engagement Team Discussion" which purported to document a planning meeting held by the engagement team at the beginning of the engagement. The planning meeting serves an important purpose. Pursuant to PCAOB Auditing Standards, the engagement team – including the engagement partner who is ultimately responsible – should discuss the client's business and consider any potential risk areas for material misstatement due to error or fraud for that particular client. *See* PCAOB Auditing Standard 2110: *Identifying and Assessing Risk of Material Misstatement*. But, at BF Borgers, those planning meetings did not occur. Instead, the staff level auditor simply rolled forward the Engagement Team Discussion workpaper from the prior year or quarter, updating the balance sheet date information on the document and inserting a new (and false) date of a planning meeting that never happened.

18. Another example of the workpapers falsely documenting non-existent work was the "Supervision Review and Approval" workpaper. This workpaper was divided into four sections: (1) Detailed Review; (2) Engagement Partner Review; (3) Engagement Quality Review; and (4) Partner Signing Auditor Report. The first three sections enumerate the specific work items to be done by the staff level auditor, the engagement partner, and the EQR, and the form requires each work item to be checked yes, no, or N/A. When completing this document, the staff level auditor updated the balance sheet date on the first page and then copied the check marks from the same workpaper for the previous audit or review. Additionally, the staff level auditor typed in the name of the EQR and engagement partner on the signature lines for their respective sections. This process created the false appearance that each specific work item checked "yes" was completed and that the engagement partner and EQR reviewed and approved in the completion of this workpaper, and had done so on the date typed next to their signature lines.

19. In the auditing industry, the generally accepted method for engagement partners to document their supervision of an engagement in compliance with PCAOB standards, and their review of the work performed by engagement team members, is by signing and dating (or "signing off") on workpapers when they perform or review work. Such sign offs provide evidence of who performed or reviewed audit work and the date on which such work or review occurred.

20. BF Borgers had audit management software which permitted individuals to electronically “sign off” on workpapers. But Borgers did not use that software to sign off on workpapers. Instead, Borgers instructed a staff member to electronically sign off on all workpapers for each engagement within the firm’s audit management software. Borgers provided that staff member with usernames to create the false appearance of separate sign offs by the staff auditor, the engagement partner, and the EQR on individual workpapers. In reality, all of those sign offs were done by the same staff person within seconds of each other.

21. According to Borgers, his emails were the only written records evidencing the work he performed as engagement partner on BF Borgers engagements. However, Respondents did not include any of those emails as part of the workpapers retained by BF Borgers. They also failed to preserve the vast majority of Borgers’ emails that pre-dated March 2023 by permitting those emails to be auto-deleted due to purported storage-size limitations on the firm’s computer systems. To the extent that Borgers had emails that documented his participation in certain audits and reviews, Respondents did not preserve those emails or include them in the workpapers as required by AS 1215, nor were they retained for seven years as required by AS 1215.14 and Rule 2-06 of Regulation S-X.

Borgers Failed To Supervise and Review The Work Of The Engagement Team

22. PCAOB Auditing Standard 1201: *Supervision of the Audit Engagement* (“AS 1201”) sets forth the engagement partner’s responsibility for supervising the audit engagement, including the work of the engagement team members. Specifically, the engagement partner is responsible for informing the team members as to the objectives, nature, timing, and extent of the auditing procedures they are to perform as well as relevant information regarding the particular client that could affect those procedures. AS 1201.05(a).

23. Additionally, the engagement partner is required to review the work of the engagement team to ensure that work was performed and properly documented, all of the objectives of the auditing procedures were achieved, the work performed by the team support the conclusions reached and complied with PCAOB standards. AS 1201.03 and 1201.05(c).

24. Borgers, as the engagement partner, did not adequately review or supervise the audit engagements. As discussed above, there were no audit planning meetings held in relation to any of BF Borgers’ audit engagements. In addition, Borgers rarely interacted with the staff level auditors. Borgers failed to inform the team members as to the objectives, nature, timing, and extent of the auditing procedures they were to perform as well as relevant information regarding the particular client that could affect those procedures as required by AS 1201; *see also* AS 1201.06(d) (requiring the audit partner to consider the knowledge, skill, and ability of each team member to determine the extent of supervision necessary).

25. As the engagement partner, Borgers also failed both to review the work of the engagement team and to ensure that the workpapers properly and accurately documented the work performed on the audits. Specifically, Borgers failed to review important workpapers for many

audits, including workpapers relating to his purported supervision and review of the engagement team’s work and conclusions.

Respondents Failed To Obtain Engagement Quality Reviews

26. PCAOB Auditing Standard 1220: *Engagement Quality Review* (“AS 1220”) requires audits and reviews of interim financial information to be approved by an engagement quality reviewer (previously defined as “EQR”). The purpose of this requirement is to have an independent and objective review of all of the significant judgments and related conclusions by the engagement team. If the EQR agrees with the engagement team’s conclusions and is not aware of any significant engagement deficiency, then he/she provides a concurring approval of issuance (hereinafter a “concurring approval”). With respect to audits, “the firm may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance.” AS 1220.12 and 1220.13.

27. Despite this clear requirement, Respondents failed to engage an EQR to provide a concurring review and approval on audits and reviews of financial statements incorporated in at least 1,625 Public Filings and Disclosures from January 2021 through June 2023, including 336 SEC issuer annual filings, 1,039 SEC issuer quarterly filings, 180 SEC registration statements, 45 SEC-registered broker-dealer annual filings, and 25 OTC company annual reports. Put another way, Respondents failed to engage an EQR to provide a concurring approval for at least 75% of their clients’ Public Filings and Disclosures incorporating such audits and reviews:

SEC Filing Type	No. of Clients	Total Filings	No EQR
SEC Issuer Annual Filings	330	506	336
SEC Issuer Quarterly Filings		1186	1039
SEC Registration Statements		405	180
SEC Registered Broker-Dealer Annual Filings	20	45	45
TOTAL SEC FILINGS	350	2142	1600
OTC Company Annual Reports	19	33	25
TOTAL SEC FILINGS AND OTC DISCLOSURES (“Public Filings and Disclosures”)	369	2175	1625

D. VIOLATIONS

Rule 102(e) and Section 4C of the Exchange Act

28. Section 4C of the Exchange Act and Rule 102(e)(1)(ii) provide, in part, that the Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way 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 (Rule 102(e)(1)(iv), or any registered public accounting firm or associated person (Exchange Act Section 4C(b)), “improper professional conduct” includes intentional or knowing conduct, including

reckless conduct, that results in a violation of applicable professional standards, or either of the following two types of negligent conduct: (i) 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 (ii) 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. Exchange Act Section 4C(b); Rule 102(e)(1)(iv). As a result of the conduct described above, Respondents engaged in “improper professional conduct” within the meaning of Exchange Act Section 4C(a)(2) and Rule 102(e)(1)(ii).

AS 1215: Audit Documentation

29. AS 1215 provides the “requirements for documentation the auditor should prepare and retain in connection with engagements conducted pursuant to [PCAOB] standards.” AS 1215.01. The documentation must be clear and sufficiently detailed. AS 1215.04.

30. “The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.” AS 1215.06. Under this standard, “[a]udit documentation must clearly demonstrate that the work was in fact performed” and “must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement [t]o understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.” *Id.*

31. As a result of the above-described conduct, Respondents violated these standards with respect to numerous engagements.

AS 1201: Supervision of the Audit Engagement

32. AS 1201 sets forth the engagement partner’s responsibility “to supervise the audit engagement, including supervising the work of the engagement team members so that the work is performed as directed and supports the conclusions reached.” AS 1201.02. The engagement partner is also responsible for ensuring compliance with PCAOB standards. AS 1201.03.

33. Specifically, the engagement partner is responsible for “[i]nform[ing] engagement team members [as to] [t]he objectives... nature, timing, and extent of procedures they are to perform” as well as relevant information regarding the particular client “that could affect the procedures to be performed or the evaluation of the results of those procedures.” AS 1201.05(a).

34. Additionally, the engagement partner is required to “[r]eview the work of engagement team members to evaluate whether [t]he work was performed and documented, [t]he objectives of the procedures were achieved, and [t]he results of the work support the conclusions reached.” AS 1201.05(c).

35. As a result of the above-described conduct, Respondents violated these standards with respect to numerous engagements.

AS 1220: Engagement Quality Review

36. “An engagement quality review and concurring approval of issuance are required for the following engagements conducted pursuant to [PCAOB] standards: (a) an audit engagement; (b) a review of interim financial information; and (c) an attestation engagement performed pursuant to [one of two relevant attestation standards].” AS 1220.01. The purpose of this requirement is to have an independent and objective “evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued, in order to determine whether to provide concurring approval of issuance.” AS 1220.02; *see also* AS 1220.06 (independence) and AS 1220.07 (objectivity).

37. With respect to audits, “the firm may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance.” AS 1220.13.

38. As a result of the above-described conduct, Respondents violated these standards with respect to numerous engagements.

Respondents Violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

39. Section 17(a) of the Securities Act prohibits any person, in the offer or sale of securities, from (1) “employ[ing] any device, scheme or artifice to defraud;” (2) “obtain[ing] money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;” and (3) “engag[ing] in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.”

40. Section 10(b) of the Exchange Act prohibits fraud “in connection with the purchase or sale” of securities. Section 10(b) and Rule 10b-5 thereunder prohibit (a) using any device, scheme, or artifice to defraud; (b) making material misstatements of fact or omitting a material fact necessary to make a statement made not misleading; or (c) engaging in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

41. Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder require issuers with securities registered under Section 12 of the Exchange Act to file annual and quarterly reports with the Commission. Section 15(d) of the Exchange Act and Rules 15d-1 and 15d-13 thereunder provide that issuers with reporting obligations under Section 15(d) of the Exchange Act must file annual and quarterly reports with the Commission. Regulation S-X requires that audits and reviews of such financial statements be done by an independent public accountant in accordance with PCAOB standards. Regulation S-X, Rules 1-02(d) (annual audits) and 10-01(d) (quarterly reviews of interim financial statements). The same requirements apply to smaller

reporting companies. Regulation S-X, Rules 8-02 (annual audits) and 8-03 (interim financial statements).

42. Respondents knew that their issuer clients were required under the Commission's rules and regulations to have their financial statements audited and/or reviewed by BF Borgers in accordance with PCAOB standards and to incorporate those financial statements into filings made with the Commission.

43. Respondents falsely represented in the firm's engagement letters to certain issuer clients that the audits and quarterly reviews would be conducted in accordance with PCAOB standards.

44. Respondents knew about the PCAOB standards discussed above and knowingly violated those standards.

45. Borgers – the sole owner and sole engagement partner at the firm – authorized BF Borgers to issue the audit reports that contained certifications falsely representing that the audits had been conducted in compliance with PCAOB standards.

46. Respondents also falsified workpapers to create the illusion that the firm's engagements complied with PCAOB standards – including the falsification of workpaper sign offs and EQR concurring approvals.

47. Respondents also knew that the fraudulent audit reports would be and were included within hundreds of filings made by their issuer clients with the Commission, including annual reports and registration statements, and that investors could and would access those publicly-available filings. Respondents also knew that certain fraudulent audit reports would be and were included within additional annual reports publicly disclosed (and thus available to investors) via the website maintained by OTC Markets.

BF Borgers Violated Rule 2-02(b)(1) of Regulation S-X and Borgers Caused Those Violations

48. Rule 2-02(b)(1) of Regulation S-X requires an accountant's report to state the applicable professional standards under which the audit was conducted.

49. Through the conduct described above, BF Borgers violated Rule 2-02(b)(1) of Regulation S-X in connection with the issuance of numerous audit reports, each of which falsely stated that BF Borgers had conducted its audit in accordance with PCAOB standards.

50. Borgers – as the engagement partner on those audits – knew that the audits had not been conducted in accordance with PCAOB standards. Nevertheless, he authorized BF Borgers to issue audit reports containing the false certification. Thus, he knew or should have known that his conduct would contribute to BF Borgers' violations. As a result, Borgers caused BF Borgers' violations of Rule 2-02(b)(1).

Respondents Violated Rule 2-06 of Regulation S-X

51. Rule 2-06 of Regulation S-X requires that:

For a period of seven years after an accountant concludes an audit or review of an issuer's financial statements . . . , the accountant shall retain records relevant to the audit or review, including workpapers and other documents that form the basis of the audit or review, and memoranda, correspondence, communications, other documents, and records (including electronic records) which: (1) Are created, sent or received in connection with the audit or review; and (2) Contain conclusions, opinions, analyses, or financial data related to the audit or review.

52. Through the above-described conduct, Respondents violated Rule 2-06 of Regulation S-X.

Respondents Caused Certain Issuer and Broker-Dealer Clients to Violate Sections 13(a), 15(d), 17(a), and 17(e) of the Exchange Act and Rules 13a-1, 13a-13, 15d-1, 15d-13, and 17a-5 Thereunder

53. As discussed above, Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder require issuers with securities registered under Section 12 of the Exchange Act to file annual and quarterly reports with the Commission.

54. Regulation S-X requires that audits and reviews of such financial statements be done by an independent public accountant in accordance with PCAOB standards. Regulation S-X, Rules 1-02(d) (annual audits) and 10-01(d) (quarterly reviews of interim financial statements). The same requirements apply to smaller reporting companies. Regulation S-X, Rules 8-02 (annual audits) and 8-03 (interim financial statements).

55. Section 15(d) of the Exchange Act and Rules 15d-1 and 15d-13 thereunder provide that issuers with reporting obligations under Section 15(d) of the Exchange Act must file annual and quarterly reports with the Commission.

56. Thus, an issuer violates Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, or Section 15(d) of the Exchange Act and Rules 15d-1 and 15d-13 thereunder, when it files annual or quarterly reports with the Commission that fail to include financial statements audited or reviewed by an independent public accountant in accordance with PCAOB standards.

57. Certain issuer clients of Respondents violated Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, or Section 15(d) of the Exchange Act and Rules 15d-1 and 15d-13 thereunder, when they filed with the Commission annual and quarterly reports that included financial statements which had not been audited or reviewed by Respondents in accordance with PCAOB standards.

58. As discussed above, Respondents knew both that they had not audited or reviewed those financial statements in accordance with PCAOB standards and that their clients would include those financial statements in filings with the Commission. Thus, Respondents knew or should have known that their actions would contribute to their clients' violations. As a result, Respondents caused their clients' violations of Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, and Section 15(d) of the Exchange Act and Rules 15d-1 and 15d-13 thereunder.

59. Sections 17(a) and 17(e) of the Exchange Act and Rule 17a-5 thereunder require registered broker-dealers to file with the Commission annual financial statements audited by an independent public accountant in accordance with PCAOB standards.

60. Thus, a registered broker-dealer violates Sections 17(a) and 17(e) and Rule 17a-5 thereunder when it files annual financial statements that have not been audited by an independent public accountant in accordance with PCAOB standards.

61. Certain registered broker-dealer clients of Respondents violated Sections 17(a) and 17(e) of the Exchange Act and Rule 17a-5 thereunder when they filed with the Commission annual financial statements that had not been audited by Respondents in accordance with PCAOB standards.

62. As discussed above, Respondents knew both that they had not audited those financial statements in accordance with PCAOB standards and that their clients would include those financial statements in filings with the Commission. Thus, Respondents knew or should have known that their actions would contribute to their clients' violations. As a result, Respondents caused their clients' violations of Sections 17(a) and 17(e) of the Exchange Act and Rule 17a-5 thereunder.

E. FINDINGS

63. Based on the foregoing, the Commission finds that Respondents engaged in improper professional conduct pursuant to Sections 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii).

64. Based on the foregoing, the Commission finds that Respondents violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

65. Based on the foregoing, the Commission finds that BF Borgers violated Rule 2-02(b)(1) of Regulation S-X and that Borgers caused those violations.

66. Based on the foregoing, the Commission finds that Respondents violated Rule 2-06 of Regulation S-X.

67. Based on the foregoing, the Commission finds that Respondents caused certain issuer clients to violate Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, and caused certain other issuer clients to violate Section 15(d) of the Exchange Act and Rules 15d-1 and 15d-13 thereunder.

68. Based on the foregoing, the Commission finds that Respondents caused certain registered broker-dealer clients to violate Sections 17(a) and 17(e) of the Exchange Act and Rule 17a-5 thereunder.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offer.

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

A. Respondents BF Borgers and Borgers shall cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Sections 10(b), 13(a), 15(d), 17(a), and 17(e) of the Exchange Act and Rules 10b-5, 13a-1, 13a-13, 15d-1, 15d-13, and 17a-5 promulgated thereunder, and Rules 2-02(b)(1) and 2-06 of Regulation S-X.

B. Respondents BF Borgers and Borgers are censured.

C. Respondent BF Borgers is denied the privilege of appearing or practicing before the Commission as an accountant.

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

E. Respondent BF Borgers shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$12 million 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.

F. Respondent Borgers shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$2 million 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.

G. 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 the Respondent making payment (*i.e.*, BF Borgers CPA PC or Benjamin F. Borgers), and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Kathryn A. Pyszka, Associate Director, Division of Enforcement, Securities and Exchange Commission, 175 West Jackson Blvd., Suite 1450, Chicago, Illinois 60604.

H. 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, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they 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, Respondents agree that they 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 Borgers, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Borgers 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 Borgers 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