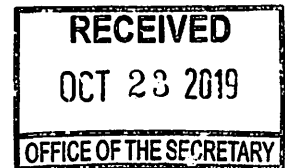


UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING

File No. 3-17990

In the Matter of

Digital Brand Media & Marketing
Group, Inc., et al.,

Respondents.

**THE DIVISION OF ENFORCEMENT'S
RESPONSE TO DIGITAL BRAND'S OCTOBER 3, 2019 LETTER**

The Division of Enforcement respectfully submits this Response to the October 3, 2019 letter submitted by Digital Brand Media & Marketing Company, Inc. ("Digital Brand") in connection with the parties' pending cross-motions for summary disposition.

FACTS AND ARGUMENT

I. The Initial Delinquencies.

Digital Brand did not file the quarterly and annual reports due from December 2015 through April 2018, a more than two-year period. Digital Brand did not attempt to cure

the filing failures until more than a year after the SEC's delinquency notice, nine months after the evidentiary hearing in this matter, and three months after the deadline it gave itself (and the court) to cure the failures. *See* **Ex. 1** at 183-84; **Ex. 9**; and **Ex. 11**.¹

Digital Brand attempted to cure the missing filings with a "Super 10-K." The Division of Corporation Finance notified Digital Brand that the Super 10-K was materially deficient because it did not include management's assessment of Digital Brand's reporting controls, did not include quarterly financial statements, and did not include a comparison of quarterly financial statements from prior years. **Ex. 14** at ¶4. Digital Brand refused to correct the deficiencies, stating that it "did not agree" with the Division of Corporation Finance's assessment. **Fritz Decl.** (Submitted with Digital Brand's Opposition to Cross-Motion for Summary Disposition) at Ex. B, p3.

Approximately a year after receiving notice that the Super 10-K was materially deficient, Digital Brand filed an amendment that only sought to fix the reporting controls deficiency. **Ex. 18**; **Ex. 21** at ¶11. The amendment included a statement that Digital Brand's management had concluded its controls were effective, qualified by language attempting to limit Digital Brand management's personal liability for the statement. The Division of Corporation Finance issued a second deficiency notice because of the attempted liability limitation. **Ex. 21** at ¶¶8-9. On October 1, 2019, Digital Brand filed a second amendment to the Super 10-K, without the attempted liability limitation. **Ex. 22**

¹ Exhibits 1-16 were submitted with the Division's March 29, 2019 Cross-Motion for Summary Disposition. Exhibits 17-21 were submitted with the Division's June 21, 2019 Response to Digital Brand's May 16, 2019 Letter. Exhibits 22 and 23 are submitted with this memorandum. A Table of Exhibits follows immediately after the Certificate of Service.

(Second Amendment to Super 10-K) at 22. The second amendment does not include the missing quarterly financial information. *Id.*

In sum, more than two-and-a-half years after the original delinquency notice, the institution of these proceedings, and a full administrative hearing, Digital Brand has now filed the required information on its reporting controls, but has still failed to file the missing quarterly financial information.

II. The Subsequent Deficiencies

After filing the Super 10-K, Digital Brand resumed regular filing (albeit not always timely), filing four quarterly reports and one annual report for the 2018 fiscal year. All of the filings included the same reporting control deficiencies the Division of Corporation Finance had previously pointed out in connection with the Super 10-K. **Ex. 14** at ¶4; **Ex. 16** at ¶3-5. The Division of Corporation Finance notified Digital Brand of these deficiencies but, as with the Super 10-K, Digital Brand took the position that it did not agree with the Division's assessment. **Fritz Decl.** at Ex. B, p3. Ultimately, Digital Brand filed an Amendment, but only to the 2018 annual report, which amendment was itself deficient. **Ex. 21** at ¶¶8-9 and 12. On October 1, 2019, Digital Brand filed a second amendment to the 2018 annual report which corrected the reporting control deficiencies. **Ex. 23** (Second Amendment to 2018 Annual Report) at 22. Digital Brand has not made any amendments to the four quarterly reports the Division of Corporation Finance found deficient.


In sum, more than a year after notice that the Super 10-K did not include sufficient or appropriate information on Digital Brand's reporting controls, more than six months after notice that its subsequent annual and quarterly reports included the same deficiencies,

Digital Brand has now filed the required information on its reporting controls for the 2018 annual report, but not for the four deficient quarterly reports.

CONCLUSION

Digital Brand has not cured the filing failures that led to the institution of these proceedings; nor has Digital Brand cured the deficiencies found by the Division of Corporation Finance in its more recent filings. Revocation is mandated here.

October 23, 2019




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CERTIFICATE OF SERVICE

I certify that, on October 23, 2019, I caused the foregoing paper to be e-mailed to the following:

Maranda E. Fritz
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Samantha M. Williams



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

100 F Street, N.E.
WASHINGTON, D.C. 20549



DIVISION OF
ENFORCEMENT

October 23, 2019

The Honorable Carol Fox Foelak
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-2557

Re: *In the Matter of Digital Brand Media & Marketing Group, Inc., File No. 3-17990*

Dear Judge Foelak:

Attached please find a courtesy copy of the Division of Enforcement's Response to Digital Brand's October 3, 2019 Letter. If you have any questions, please do not hesitate to contact me.

Sincerely

A handwritten signature in cursive script that reads "Arthur Tornabene-Zalas".

Arthur Tornabene-Zalas
Law Clerk, Enforcement Division
202.551.3162
TornabeneZalasA@SEC.gov

Enclosures

Cc: Maranda E. Fritz, Esq