UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18292

In the Matter of

Anton & Chia, LLP,
Gregory A. Wahl, CPA,
Michael Deutchman, CPA,
Georgia Chung, CPA, and
Tommy Shek, CPA,

Respondents.

THE DIVISION OF ENFORCEMENT'S OPPOSITION TO RESPONDENTS' OPENING BRIEF

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I. PRELIMINARY STATEMENT

"Push it through so we can get paid. [C]an't win them all."[1]

This was an instruction from Respondent Gregory Wahl about a quarterly review that his audit firm, Anton & Chia, LLP, performed for Accelera Innovations, Inc. But it could have related to any of the engagements at issue here. Instead of doing the work and following the rules, the Respondents provided rubber-stamp audits and reviews of misstated financial statements, in what amounted to a veritable audit opinion mill. And they didn't do it once, they did it over and over again – over the course of three years, twelve engagements, and three different issuer clients: Accelera, Premier Holding Corporation, and CannaVEST Corp.[2] Based upon the evidence adduced at the hearing, the Division of Enforcement has established, and the ALJ found, serial violations of the federal securities laws and improper professional conduct by Anton & Chia; its managing partner, Wahl; its co-owner, Georgia Chung; and a former audit partner, Michael Deutchman.

First, Accelera was a microcap shell company with no business and virtually no assets or revenues. In 2013, Accelera entered into an agreement to acquire Behavioral Health Care Associates, Ltd. ("BHCA") in return for $4.55 million. However, Accelera never paid a penny toward its purchase of BHCA. Nevertheless, in 2013 through 2015, Accelera fraudulently consolidated BHCA's financial statements into its own. Accelera thereby fraudulently inflated its revenues by as much as 90%. The Respondents knew these facts but nonetheless failed to challenge Accelera's accounting for BCHA, even when, in 2014, Accelera's newly hired CFO

[1] DF-209.

[2] The Commission charged each issuer with, among other things, securities fraud for the same disclosure violations at issue in this matter. *See SEC v. Accelera Innovations, Inc.,* 17-cv-7052 (N.D. Ill., filed Sept. 29, 2017); *SEC v. Premier Holdings Corp.*, 18-cv-00813 (filed S.D.N.Y. Dec. 4, 2017); *SEC v. CannaVEST Corp.*, 17-cv-01681 (D. Nev., filed June 15, 2017).

questioned whether the consolidation conformed to GAAP.

Second, Wahl, and thus Anton & Chia, deviated from numerous auditing standards in the audit of Premier's 2013 financial statements. Despite their clear materiality and contrary to the audit planning memo, Wahl failed to obtain sufficient audit evidence to support Premier's $869,000 valuation of an unsecured promissory note ("Note") and the $4.5 million in goodwill purportedly arising from Premier's acquisition of an 80% interest in The Power Company ("TPC"). Instead, he relied on preliminary valuation tables, with underlying assumptions for the wrong company and the wrong period, to sign off on Premier's selection of the highest of several valuations shown on the tables, which was not even a preliminary valuation of the Note. Wahl also failed to meet the relevant auditing standards in signing off on Premier's allocation of the entire TPC purchase price to unimpaired goodwill.

Finally, Wahl repeatedly mishandled the CannaVEST engagement over three successive financial quarters. CannaVEST, a shell company, acquired PhytoSphere Systems, LLC in January 2013, for a purported purchase price of $35 million, and reported $35 million in assets from that transaction in its first and second quarter 2013 Forms 10-Q. But the fair value of the transaction was never $35 million. CannaVEST could not possibly pay $35 million in cash for PhytoSphere. CannaVEST's 2012 Form 10-K disclosed the company had no operations, no revenues, and just $431 in total assets. The agreement itself provided that CannaVEST could pay entirely through the issuance of its common stock, using an arbitrary share price "collar." The collar allowed CannaVEST to cap shareholder dilution; it was never intended to reflect the fair value of its stock, which had little value. But neither Wahl nor his wife Chung, who was the engagement quality review partner ("EQR") on the matter, questioned the grossly overstated value, despite numerous red flags. In the third quarter, CannaVEST obtained an independent

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valuation, which concluded that the fair value of the transaction was approximately $8 million. That valuation cried out for a restatement of CannaVEST's first and second quarter financial statements, but Wahl did not even consider whether a restatement was necessary.

In summary, the hearing in this matter produced unassailable evidence of obvious GAAP violations, shoddy audit work, and ignored red flags. In response, all three Respondents have doubled down. They claimed they did nothing wrong. They offered increasingly outrageous, post-hoc interpretations of GAAP and PCAOB standards to defend their conduct. They pointed fingers at everyone else – the clients, the issuers, the PCAOB. Wahl even falsified evidence in a desperate bid to create favorable expert testimony, and then, as the ALJ found, committed perjury when his falsification became apparent at the hearing.

For all of these reasons, the Respondents' egregious, repeated misconduct demonstrates that they cannot be trusted to uphold the standards of their profession.

II. PROCEEDINGS BELOW AND SUMMARY OF INITIAL DECISION

On December 4, 2017, the Commission instituted proceedings against Wahl and Deutchman under Sections 4C and 21C of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 102(e)(1)(ii) and (iii) of the Commission's Rules of Practice, and against Chung under Section 4C of the Exchange Act and Rule 102(e)(1)(ii). The Commission also instituted proceedings against Anton & Chia and three other Anton & Chia accountants (Richard Koch, Raul Gandhi, and Tommy Shek) that were settled when instituted or during these proceedings. On January 5, 2018, Respondents answered by generally denying the allegations and asserting affirmative defenses.

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The Respondents were initially represented by counsel. Wahl's and Chung's counsel withdrew just before the trial and Deutchman's counsel withdrew after filing Deutchman's post-hearing submission.

The evidentiary portion of the hearing took place over a total of twenty-five days from October 15, 2019 to January 8, 2020. The ALJ heard the live testimony of twenty-eight witnesses, three of whom were character witnesses called by Wahl or Deutchman at the ALJ's invitation. Wahl testified for more than seven days, Deutchman testified for a day and a half and Chung testified for less than a day. The ALJ also admitted a declaration of one witness offered by the Division and the investigative testimony of another witness offered by Wahl. The ALJ admitted more than 500 exhibits.

Following consideration of all of the above evidence and voluminous post-hearing filings, the ALJ issued an Initial Decision ("ID") in which he found:

> In performing the audits or interim reviews of [Accelera, Premier, or CannaVEST], Respondents egregiously deviated from multiple PCAOB standards and ignored numerous red flags indicating the companies' financial statements and public filings contained material misstatements. Moreover, Wahl and Deutchman were reckless in not knowing that the statements in Anton & Chia's reports for Accelera and Premier were false and misleading. In its audit reports, the firm egregiously misrepresented that it had conducted its work in accordance with PCAOB standards and that the companies' financial statements fairly presented their financial positions according to generally accepted accounting principles (GAAP).[3]

(ID-2-3.) The ALJ also found that Wahl committed perjury to cover up his falsification of the document he provided to his expert witness. (ID-15-19, 111, 115-116, 119.)

[3] The ALJ found that all the financial statements at issue failed to conform to GAAP. (ID-25-26, 59-63, 72-75.)

The ALJ concluded that all three Respondents had engaged in improper professional conduct as defined at Rule 102(e)(1)(ii) and found that Respondents Wahl and Deutchman had willfully violated and/or aided and abetted violations of Exchange Act Section 10(b) and Rule 10b-5, Exchange Act Section 13(a), and Rule 2-02(b) of Regulation S-X. (ID-105-06.) The ALJ ordered that Wahl and Deutchman be permanently barred from appearing or practicing before the Commission as accountants, cease and desist from violating the statutory provisions and pay $160,000 (Wahl) and $40,000 (Deutchman) in civil penalties, and ordered that Chung be barred for one year from appearing or practicing before the Commission as an accountant with the right to reapply.

III. THE RECORD SUPPORTS THE ALJ'S FINDINGS THAT RESPONDENTS ENGAGED IN IMPROPER PROFESSIONAL CONDUCT.

As the ALJ found, Respondents violated multiple PCAOB standards during their audits and/or interim reviews of Accelera, Premier, and CannaVEST. Basic auditing standards require due professional care in the performance of an audit. (DF-47-51 (citing AU 230, *Due Professional Care in the Performance of Work*).) Due care includes professional skepticism – "a questioning mind and a critical assessment of audit evidence." (DF-49 (quoting AU 230.07).) Auditors are also required, under AS 15 (*Audit Evidence*), to plan and perform audit procedures to obtain sufficient appropriate audit evidence. (ID-38, DF-105-110.) Auditors are required "to obtain audit evidence to address" the assertions in an issuer's financial statements and related disclosures. (DF-108 (quoting AS 15.8).) If a representation made by management is contradicted by other audit evidence, then AU 333 (*Management Representations*) requires the auditor to "investigate the circumstances and consider the reliability" of management's representation. (DF-68.) As explained below, and as the ALJ found, Respondents violated these standards, and more.

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An accountant's violations of professional standards constitute improper professional conduct under Rule 102(e)(1)(iv) when the accountant engages in either: (1) intentional, knowing, or reckless conduct; (2) a single instance of highly unreasonable conduct in circumstances in which heightened scrutiny is warranted; or (3) repeated instances of unreasonable conduct that indicate a lack of competence to practice before the Commission. (ID-104.) Recklessness "can be established by a showing of an extreme departure from the standard of ordinary care for auditors." *Michael J. Marrie*, Exchange Act Release No. 48246, 2003 WL 21741785, at *7 (July 29, 2003) (Commission opinion), *reversed on other grounds*, *Marrie v. SEC*, 374 F.3d 1196 (D.C. Cir. 2004). The term "highly unreasonable conduct" means something more egregious than ordinary negligence but less than recklessness, and it is an objective standard that measures the conduct at issue "by the degree of the departure from professional standards and not the intent of the accountant." *Id.* The term "unreasonable conduct" means ordinary negligence. *Dohan & Co., CPA*, Initial Decision Release No. 420, 2011 WL 2544473, at *12 (June 27, 2011). The ALJ found that Wahl's and Deutchman's violations constitute improper professional conduct under any of these three criteria, and Chung's under highly unreasonable conduct.[4] (ID-104-106.)

A. Wahl Engaged in Repeated Instances of Extremely Reckless, Highly Unreasonable, and Unreasonable Conduct.

In the Accelera, Premier, and CannaVEST engagements, Wahl failed to follow a multitude of PCAOB standards and ignored "red flags that should have been obvious." (ID-105-

[4] Respondents suggest that the ALJ erred in finding that the same conduct could support both the "highly unreasonable" prong under 102(e)(1)(iv)(B)(1) and the "repeated instances of unreasonable conduct," under 102(e)(1)(iv)(B)(2). (RB-24, 26-27.) But that is incorrect. It is only logical that Respondents' repeated instances of highly unreasonable conduct would constitute unreasonable conduct as well. *See John J. Aesoph*, Exchange Act Release No. 78490, 2016 WL 4176930, at *21 (Aug. 5, 2016) (Commission opinion), *vacated on other grounds*, *Pending Admin. Proc.*, 2018 WL 4003609.

106.) The ALJ correctly found that these failures amounted to improper professional conduct under any of the three definitions in Rule 102(e)(1)(iv): they were "reckless, at times highly unreasonable, and at the very least, [] repeatedly unreasonable." (ID-105.)

For each of the three issuers, Wahl's failures to ask questions or apply skepticism in response to numerous inconsistences and red flags were reckless. *See Marrie*, 2003 WL 21741785, at *23. Alternatively, Wahl engaged in "highly unreasonable conduct" by "look[ing] the other way" in circumstances where heightened scrutiny was warranted. *See Marrie v. SEC*, 374 F.3d 1196, 1206 (D.C. Cir. 2004). At the very least, Wahl engaged in repeated instances of unreasonable conduct that indicates a lack of competence to practice before the Commission. "More than one violation of applicable professional standards ordinarily will indicate a lack of competence." Amendment to Rule 102(e) of the Commission's Rules of Practice, Securities Act Release No. 7593, 1998 WL 729201, at *9 (Oct. 19, 1998). As summarized below, Wahl violated multiple standards throughout each of the twelve engagements. *See Aesoph,* 2016 WL 4176930, at *21 (finding "that the recurrence of unreasonable conduct in so many audit areas … demonstrates a lack of competence to practice before us").

1. Accelera-Related Violations of PCAOB Standards

Wahl was the engagement partner for Accelera's 2013 and 2014 year-end audits and five 2014 and 2015 interim reviews. (ID-20; DF-4.) In each engagement, Wahl violated AU 230, AS 15, AS 3 (*Audit Documentation*), and AU 333, by failing to exercise due care and professional skepticism, failing to gather and adequately consider audit evidence, failing to document significant issues and findings concerning the BHCA acquisition, failing to adequately question the representations of Accelera's management, and failing to note several red flags indicating that Accelera's consolidation of BHCA was inappropriate. (ID-

38-40; DF-217, 235, 249, 297, 305, 311, 315.) For the 2013 audit, Wahl staffed the audit with an insufficiently experienced staff accountant and then failed to supervise him, in violation of AU 210 (*Training and Proficiency of the Independent Auditor*) and AS 10 (*Supervision of the Audit Engagement*). (ID-40-41; DF-217, 249, 297, 305.) For the 2014 audit, Wahl violated AS 7 (*Engagement Quality Review*) by allowing Deutchman to sign off as EQR when he failed to act appropriately in carrying his EQR duties. (ID-42; DF-306-10.) For the reviews, Wahl also failed to perform appropriate inquires in violation of AU 722 (*Interim Financial Information*). (ID-43; DF-286.) As a result of Wahl's repeated violations of PCAOB standards, Anton & Chia failed to identify Accelera's improper consolidation of BHCA and resultant gross misstatement of its financials in violation of GAAP. (ID-21-30; DF-195-201, 241-49, 397-98.)

Wahl received the stock purchase agreement ("SPA") between Accelera and BHCA, as well as at least six ancillary agreements. (ID-31; DF-236.) The agreements are clear that Accelera would only obtain the stock of BHCA "upon receipt of the payment of the purchase price." (ID-22-23; DF-118-20, 126, 128, 131, 133, 136-37.) Wahl was aware that Accelera never made the payment. (ID-31; DF-238.) Nevertheless, Wahl failed to identify BHCA as improperly consolidated in any of the seven sets of Accelera's financial statements that he audited and/or reviewed.

For the 2013 audit, Wahl improperly delegated the consolidation analysis to Yu-Ta Chen, an unlicensed staff accountant with no business accounting or auditing experience. Wahl tasked Chen with drafting the sole memo that analyzed Accelera's accounting for the BHCA transaction ("Acquisition Memo"). (ID-31-32, 40-41; DF-219-21, 243-47.) Although Chen's inexperience should have increased Wahl's scrutiny and supervision, Wahl signed off

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on the Acquisition Memo notwithstanding obvious errors and inconsistencies. (ID-31-32, 41; DF-222, 248-49.) Among other things, the Acquisition Memo failed to identify an acquisition date and referred to the transaction different tenses. (ID-31-32, 39-40; DF-244-47.) This memo was the ***only*** 2013 audit workpaper that addressed consolidation. (ID-31-32, 40; DF-242.)

Although the engagement team identified the BHCA transaction as a risk area (DF-230-31), and acknowledged that it could not rely on Accelera's internal controls (ID-31-32; DF-232), Wahl failed to apply appropriate scrutiny to the BHCA consolidation. Among other things, Wahl failed to perform field work (ID-32; DF-252), make appropriate inquiries of BHCA's owner, Wolfrum (ID-32; DF-253-54), review the amendments to the SPA and/or confirm that Accelera had met their terms (DF-256). This is all despite the serious red flags that arose during the 2013 audit, including that Accelera had already missed the first payment under the SPA (ID-28, 31; DF-251.)

Throughout the remaining six engagements, Wahl never revisited Accelera's decision to consolidate BHCA, even in the face of mounting red flags. (ID-32-38, 43, DF-285, 312.) Among other things: (1) Accelera never made any payments toward BHCA (ID-33, 43; DF-382); (2) Accelera never received BHCA revenues (ID-33; DF-278, 334); (3) Accelera never filed the Form 8-K that would have been required if it actually acquired BHCA (ID-33; DF-280-81, 348-50); (4) Wolfrum responded to Anton & Chia's debt confirmation by noting that "the terms of the Stock Purchase Agreement shall control" (ID-35; DF-329-30); (5) Accelera never issued consideration for the SPA amendments (DF-342-43); (6) Accelera accounted for other putative acquisitions, where it failed to make payments, differently than BHCA (ID-36-37; DF-344-47, 383); and (7) in the 2014 audit, Accelera wrote down completely the

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goodwill associated with BHCA, instead of restating as it should have done. (ID-37, 39, 42; DF-351-54).

Contrary to Wahl's post-hoc excuses (RB-8-10) – none of which are reflected in Anton & Chia's workpapers – the ALJ did not misconstrue the appropriate standard for consolidation, ASC 805 (*Business Combinations*) (ID-25-26). Wahl is incorrect that Accelera had "contractual control," over BHCA. The SPA and other agreements are clear that this was to be a normal stock purchase and not some complex contractual control arrangement where no consideration was exchanged. (ID-26-28; DRWF-688-689, 698, 701.) Indeed, the SPA itself is clear that BHCA's stock would transfer "upon payment of the purchase price." (ID-22; DF-118-125.) And none of the other agreements conferred "contractual control" on Accelera. (ID-29; DF-137-138, 140-148; DRWF-707-08, 712, 723, 725.) Wahl is likewise incorrect that accounting principles for variable interest entities would have applied to this transaction. (ID-25 n.11; DRWF-693.)

Wahl's remaining arguments are unavailing. Accelera's ultimate responsibility for its own financial statements (RB-10-11) cannot absolve Wahl of his responsibility to audit the financial statements and perform his duties in compliance with PCAOB standards, which he failed to do (ID-39, 95 n.35). Further, the ALJ did not misconstrue the standards for auditing and testing consolidation. (RB-11-13.) While auditors may not be required to document audit conclusions for ***every*** transaction, no matter how small (*see*, *e.g.*, AS 3.2, 3.4, 3.6), there is no dispute that the BHCA consolidation, which accounted for 90% of Accelera's revenues, was clearly material to Accelera's financial statements. (ID-39; DF-200; Ex. 88.1 ¶¶ 171-73.) And the fact that Anton & Chia may have required Accelera to record millions in audit adjustments (RB-13) does not shield Wahl from liability; indeed, Accelera's weak internal

controls and alleged accounting errors only increased Wahl's responsibility to scrutinize its financial statements under AS 15 (ID-31-32, 38-39).

2. Premier-Related Violations of PCAOB Standards

As the ALJ found, Wahl also egregiously deviated from PCAOB standards in the audit of Premier's 2013 financial statements. Premier's financial statements violated GAAP by overstating the value of the Note; recording the entire TPC purchase price as goodwill, even though the transaction included identifiable assets (ID-44, 61-63); and, contrary to Premier's representations about its accounting for goodwill, failing to measure that goodwill for impairment (ID-63; DF-526, 528). Together, the Note and the goodwill from the TPC acquisition represented 78% of Premier's reported assets at December 31, 2013. (DF-529.) Wahl, who was the engagement partner on the audit (ID-51), did not adequately review these problematic transactions in accordance with PCAOB standards. (ID-44.)

a. Audit Failures Related to the Note Valuation

In January 2013, Premier received the unsecured promissory Note from a related party, in exchange for certain green energy assets. (ID-46; DF-423, 621.) Although the Note had a face value of $5 million, it was actually worthless. (ID-44.) In its 2013 financial statements, Premier falsely reported that the Note had been preliminarily valued at $869,000. (ID-48-49; DF-502.) As the ALJ found, Wahl did not exercise any professional skepticism with respect to Premier's unsubstantiated assertion that the Note was worth $869,000. (ID-64; DF-547.)

The $869,000 figure was not, in fact, from a valuation. The valuation firm, Doty Scott Enterprises, Inc., sent Premier an Excel workbook of "initial valuation tables," in an effort to obtain information it needed to complete the valuation. (ID-48; DF-442-45.) The workbook contained three placeholder values; the highest, $869,000, was the enterprise value of the

company that had issued the Note, and the lowest, $698,377, was the value of the Note. (ID-48; DF-448.)

Anton & Chia received copies of Doty Scott's initial valuation tables. (ID-49.) Audit staff repeatedly tried, but failed, to obtain a valuation report, so they could understand the methodology and assumptions underlying the $869,000 value Premier had used. (ID-51-52; DF-482, 495.) The audit manager told Wahl that he had insufficient information to audit the Note valuation, and he refused to sign off on the relevant workpapers. (ID-53; DF-556-67.) Earlier, the staff accountant, Chris Wen, had similarly told Wahl that he did not understand the methodology or assumptions underlying the $869,000 value. (ID-50; DF-463, 467-68.)

For the audit, Wen – who had little relevant experience – created two workpapers related to the Note. (ID-49; DF-452-56.) Both workpapers were seriously and obviously flawed. (ID-50; DF-566-613.) They excluded important information, such as the terms of the Note, which were highly favorable to the issuer. (ID-53.) Neither workpaper addressed the obvious question of why Premier would use the enterprise value of the issuing entity, rather than the value of the Note itself. (ID-48.) They did not analyze Doty Scott's "methods and assumptions," as the standards require. (ID-53; DF-587-94.) One workpaper included the obviously false representation that Wen had performed procedures to evaluate the valuation; Wen could not, and not did, perform those procedures, as Wahl well knew. (ID-51; DF-472-73, 550-55, 589, 596-97, 606.) Wahl nonetheless hastily signed off on one of the two workpapers (ID-58-59; DF-634); the other, he did not even review (ID-53).

As the ALJ found, Wahl did not exercise due care or properly consider the competency and sufficiency of the evidence in the "sparingly few moments" he spent reviewing the Note valuation. (ID-63-64.) He ignored red flags that the valuation was

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incorrect, including: (1) there was little reason to believe the issuer could pay off the Note (DF-431); (2) the staff assigned to audit the Note value did not understand Doty Scott's tables (ID-50, 53, 64); (3) the tables repeatedly referenced a different transaction, revealing they were not final or correct (ID-52-53; DF-581-85); and (4) even if the tables had been final, $869,000 was a value of the ***issuer***, not the Note (ID-64; DF-436, 448.) Wahl assigned inexperienced staff to prepare the relevant workpapers. (ID-49-50; DF-452-56.) Then, he reviewed those workpapers hastily, or not at all. (ID-53, 58-59; DF-539-43.) Thus, Wahl failed to exercise due care and skepticism (AU 230), obtain sufficient audit evidence (AS 15), properly use the work of a specialist (AU 336 (*Using the Work of a Specialist*)), ensure that the workpapers adequately documented the procedures that were supposedly performed (AS 3), consider the possibility of fraud (AU 316 (*Consideration of Fraud in a Financial Statement Audit*)), or perform alternative confirmation procedures (AU 330 (*The Confirmation Process*)). (ID-44; DF-546-634.)

None of Wahl's efforts to defend his conduct or Premier's accounting withstand scrutiny. First, Wahl claims Premier's February 2013 board minutes corroborate the $869,000 value. The minutes document the board's authorization to sell the Note for 5 million shares of Premier stock, which, according to Wahl, were worth $900,000. (RB-13, 17.) But this transaction never took place. (DRWF-509.) Wahl then claims that the Note was "settled" for 7.5 million shares in March 2014. (RB-13, 18.) As the ALJ found, the Note was actually exchanged for ***2.5*** million shares, which were worth far less than $869,000. (ID-54; DF-478, 481; DRWF-506.) Moreover, neither of these arguments are reflected in Anton & Chia's workpapers, suggesting that they are merely "post-hoc rationalizations." (ID-54.)

b. Audit Failures Related to the TPC Acquisition

In early 2013, Premier acquired an interest in TPC, a de-regulated power broker, for $4.5 million worth of Premier stock. (ID-55-56.) In its 2013 financial statements, Premier did not allocate the purchase price of TPC between goodwill and identifiable assets, as GAAP requires. (ID-61-62; DF-517-22.) Instead, Premier assigned the entire purchase price to goodwill, and no value to TPC's customer contracts, despite the facts that (1) TPC's contracts were the source of its revenue, and (2) Premier touted the TPC acquisition to the market by publicly emphasizing the quantity and value of TPC's contracts. (ID-56; DF-505, 523.) In addition, contrary to its representations, Premier had not analyzed the goodwill derived from the TPC acquisition for impairment. (ID-63; DF-510-11.)

As the ALJ found, Wahl failed to exercise due care and professional skepticism (AU 230) by not questioning Premier's failure to allocate the TPC purchase price to any identifiable assets. (ID-64; DF-636-47.) Wahl also violated the standards by signing off on Premier's financial statements despite Premier's false representation that it assessed goodwill for impairment at least annually. (ID-64.) Finally, Wahl was "complicit in the paucity of [the] analysis and findings" in Anton & Chia's own flawed goodwill impairment analysis. (ID-64; DF-650-60.)

Wahl defends the flawed goodwill impairment analysis, claiming it was "non-required" and merely "qualitative." (RB-13-15.) This argument ignores the fact that Premier represented in its financial statements that it performed a two-step quantitative assessment of goodwill. (DF-526, 528.) In any event, once Anton & Chia undertook to perform the analysis, "required" or not, it needed to exercise due care in the process.

Wahl also invokes "professional judgment" again. (RB-15.) He suggests that the ALJ unduly "fixates" on Premier's improper accounting for TPC, and argues that the auditing standards permitted him to select which areas to test. (*Id.*) This argument is unavailing. After

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all, Anton & Chia ***did*** select the TPC allocation and goodwill impairment o test in its audit planning (DF-638,648.) – and rightly so, considering that TPC made up about two-thirds of Premier's total reported assets in 2013 (DF-509, 529; ID-63-64.)

3. CannaVEST-Related Violations of PCAOB Standards.

Finally, with respect to the three CannaVEST quarterly reviews in 2013, Wahl engaged in improper professional conduct when he repeatedly violated PCAOB standard AU 722 (*Interim Financial Information*), ignored red flags, and failed to exercise due professional care under AU 230, resulting in Anton & Chia's failure to identify CannaVEST's improper accounting for the PhytoSphere transaction in each of those quarters. (ID-76-87.)

In the first quarter, CannaVEST's most significant transaction was its acquisition of PhytoSphere on January 29, 2013 for a purported purchase price of $35 million. (DF-667-69.) Prior to the acquisition, CannaVEST was a shell company with just $431 in total assets. (DF-661-662.) PhytoSphere's fair value was not $35 million, but CannaVEST agreed to the price because it intended to mainly pay with CannaVEST shares that had little value. (DF-725.) CannaVEST should have recorded the transaction on its balance sheet at fair value under ASC 805 (*Business Combinations*) and 820 (*Fair Value Measurement*), but it did not. (DF-692-95.)

Instead, CannaVEST recorded $35 million in assets, thereby materially overstating its balance sheet in the first and second quarters. (DF-695-97.) In the third quarter, CannaVEST obtained a third-party valuation of PhytoSphere that valued it at only $8 million as of January 29, 2013. (DF-680.) CannaVEST should have restated its first and second quarter financial information, but it did not. (DF-708-09.) Instead, it wrote-off $27 million in goodwill related to the transaction. (DF-681.) In April 2014, CannaVEST restated all three quarters based on the advice of new auditors. (DF-711-20; ID-68-74.)

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Wahl was the engagement partner on all three quarterly reviews for CannaVEST. (ID-20.) During the first quarterly review, the ALJ found that Wahl failed to adequately plan and supervise the review, and make basic inquiries of management related to the PhytoSphere acquisition. (ID-76-78, 81-84.) Wahl's planning and supervision failures were numerous. For example, Wahl failed to contact CannaVEST's prior auditors (DF-790-91), failed to supervise and give direction to his inexperienced staff, failed to provide his staff adequate time to conduct the review (DF-737-60), failed to address how CannaVEST's material weakness in internal control would affect the review (DF-764), and failed to identify the GAAP standards ASC 805 and 820 that applied to the PhytoSphere acquisition (DF-765). (ID-76-78, 81-84.)

In addition, Wahl failed to make, and failed to instruct his engagement team to make the most basic inquiries of CannaVEST's management related to the fair value of the PhytoSphere acquisition. (ID-77-78, 82-83; DF-765-73.) The critical inquiries under ASC 805 and 820 are: (1) what is the fair value of the consideration to be paid, *i.e*., what is the fair value of CannaVEST's stock, as of the acquisition date, January 29, 2013, (2) what is the fair value of the PhytoSphere assets acquired, (3) was it an orderly transaction; and (4) was it a transaction between market participants. (ID-72-73, 77-78, 82-83; DF-15-24, 692-93.) Wahl, however, failed to make, or direct his staff to make, these critical inquiries. (ID-77-78, 82-83; DF-765-73, 815-18.) Moreover, the inquiries checklist for the first quarter review shows that the engagement team was not even thinking about fair value under ASC 805 and 820. The inquiries checklist asked whether the fair value of CannaVEST's assets had been measured and disclosed in accordance with GAAP, and the engagement team marked "no" for the answer. (ID-77; DF-807.)

There were also significant red flags that Wahl ignored: PhytoSphere did not have any historical financial statements; there were no financial projections for PhytoSphere; CannaVEST

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was unable to identify about half the PhytoSphere assets it acquired; and those unidentified assets were simply lumped into "other agreements" as a "plug," or "fudge factor" to arrive at the $35 million purchase price. (ID-77; DF-705 n.1078, 803-11.)

Compounding these deficiencies during the first quarter review, Wahl tasked his wife, Respondent Chung, to act as the EQR, to effectively rubber-stamp his work. (ID-106; DF-820-42.)

During the second quarter, CannaVEST made significant changes to the $35 million allocation among the individual PhytoSphere assets. (ID-79; DF-864.) In contravention to AU 722, Wahl failed to ensure that an appropriate balance sheet analytics was conducted to show these significant changes from the first to the second quarter. (ID-84; DF-865-68.) If the analysis had been done and the changes properly documented, they should have raised a red flag with Wahl regarding the accuracy of the total $35 million value attributed to the PhytoSphere transaction and the need for material modifications to the total asset value on CannaVEST's balance sheet. (ID-84; DF-867.)[5]

During the third quarter interim review, CannaVEST obtained a valuation report that valued PhytoSphere at about $8 million, as of January 29, 2013, the acquisition date. (ID-80; DF-878.) Wahl reviewed the report, but failed to consider and recommend a restatement of CannaVEST's first and second quarter financial information. (ID-86-87; DF-881-86.) Instead, Wahl recommended that CannaVEST impair $27 million in goodwill on its balance sheet. (ID-80; DF-880.) The original $35 million less the $8 million valuation equals the $27 million goodwill impairment. (DF-879.) Wahl also failed to advise CannaVEST to disclose the facts and

[5] Wahl contends that the Q2 balance sheet analytics compare Q1 to Q2 (RB-21), but this is false. The analytics compare Q2 2013 to FYE 2012.

circumstances of the goodwill impairment and the method used to determine the fair value of goodwill as required by ASC 350-20-50-2. (ID-80-81; DF-40, 710.)

The ALJ further found, and as CannaVEST acknowledged through its restatements, CannaVEST violated GAAP by valuing Phytosphere at the $35 million purchase price when the actual fair value of the transaction was only about $8 million; by failing to explain the facts and circumstances of the third quarter goodwill impairment; and by failing to restate its first and second quarter results in the third quarter when it was clear the Phytosphere transaction had been recorded incorrectly in prior quarters. (ID-72-75.)

In challenging the ALJ's findings, Wahl, and Chung argue the transaction should be recorded at the contract price of $35 million, and that the "stock price had nothing to do with the determined contract price." (RB-19.) To the extent they are contending that the price is fixed and they had no choice but to approve CannaVEST's recording of the transaction at the contract price, they ignore the analysis required under ASC 805 and 820. (ID-72-74.) Because CannaVEST would pay mainly with stock (which Wahl knew), it was incumbent upon Wahl to inquire of CannaVEST management if and how management determined the fair value of the stock as of the January 29, 2013 acquisition date. (ID-83; DF-771-73.)

By contrast, Wahl and Chung have previously argued that CannaVEST's stock traded in an active market and it was therefore the most reliable method of determining the fair value of the acquisition. (RF-266-268.) This is plainly refuted by the record, including Anton & Chia's own belated analysis of the issue in the third quarter review workpapers, which state that the stock had "finite trading volume" and did not qualify for Level 1 treatment, i.e., the stock was not trading in an active market. (ID-71-74, 83; DF-882; *see also* DF-685 (in his investigative testimony Wahl stated that the PhytoSphere transaction fell under Level 3 of ASC 820).)

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Respondents further contend that the ALJ failed to consider Anton & Chia's workpapers in finding that Respondents failed to make adequate inquiries of management about the PhytoSphere transaction. (RB-20.) Again, they are wrong. The ALJ carefully examined those workpapers, which demonstrated that Wahl failed to ask, or direct his staff to ask management any of the critical inquiries required by ASC 805 and 820 regarding the Phytosphere transaction. (ID-77-78, 82-83; DF-765-73, 815-18.)

Respondents also suggest that if CannaVEST knew, at the time of the Phytosphere agreement, that the fair value of the transaction was not $35 million then management lied to Anton & Chia, thereby "invalidating the [management] rep[resentation] letters and the engagement." (RB-19.) Anton & Chia drafted the management representation letters for signature by CannaVEST management, which included a representation that the PhytoSphere assets were recorded at fair value. (DF-761.) Anton & Chia should not have drafted such a representation, particularly given CannaVEST's acknowledged material weakness in its internal controls, and Wahl's failure to make the most basic inquiries of management that would have revealed the fair value of PhytoSphere was not $35 million. (ID-82-84.)

Additionally, Wahl and Chung argue that CannaVEST had up to a year to revise the allocation of the $35 million purchase price among the individual PhytoSphere assets. (RB-22.) But this case is not about the purchase price allocation among the individual Phytosphere assets. Rather, it is about the fact that the $35 million total asset value recorded on the balance sheet was wrong to begin with in the first quarter, remained wrong in the second quarter, and Wahl did not consider and recommend a restatement in the third quarter. (ID-72-75.)

Wahl also contends, without any record support, that in the third quarter CannaVEST did not want to restate its first and second quarter financial information or write-off the $27 million

in goodwill. (RB-21.) Wahl, however, admits he and CannaVEST management never discussed a restatement. (RF-294, item k.) In addition, CannaVEST's interim CFO testified that if Anton & Chia had insisted on a restatement, CannaVEST would have done so. (ID-97; DF-691.) Even assuming Wahl could prove his contentions about CannaVEST, an accountant's obligation to follow PCAOB standards is not a function of what the client wants or does not want. (ID-97.) Wahl should have considered and recommended a restatement, but he failed to do so. (ID-86-87; DF-881.)

B. Deutchman Engaged in Repeated Instances of Extremely Reckless, Highly Unreasonable, and Negligent Conduct.

Despite the obviously flawed accounting treatment of BHCA; the deficient, contradictory documentation; and many other red flags, Deutchman "just assumed" that Accelera's accounting for BHCA was correct. His failures constitute improper professional conduct under each prong of 102(e): they were reckless, highly unreasonable, and repeatedly unreasonable. They reflect a lack of competence to practice before the Commission. (ID-105.)

Deutchman was the engagement partner for Accelera's third quarter 2014 review and the EQR for Accelera's 2014 audit and 2015 interim reviews. (ID-20-21; DF-5.) In each engagement, he violated AS 15 and 230 by failing to properly consider audit evidence or exercise due care. (ID-38-39.) For the reviews, he also failed to perform appropriate inquires in violation of AU 722. (ID-43.)

Accelera's CFO warned Deutchman repeatedly that "Behavioral was inappropriately consolidated." (ID-34; DF-272-73, 316-21.) Deutchman ignored the CFO. (ID-35, 39; DF-322-23, 325.) He ignored other red flags, too, including Wolfrum's suspicious addendum to his confirmation letter (ID-35-36; DF-329-31); Accelera's inconsistent accounting for its other pending acquisitions (ID-36-37, 39; DF-344-47), Accelera's failure to complete its acquisition

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filings (ID-33, 39; DF-280-81, 348-50); the write-down of the goodwill associated with BHCA (ID-39; DF-351-54); and more (DF-334, 342-43, 383, 384). Despite these red flags, Deutchman did not exercise due care – he did not perform additional inquiries, obtain a third-party opinion, question BHCA's owner, or even discuss the consolidation with the engagement teams. (ID-33, 38-39; DF- 281, 285-95, 358-59, 364-66, 370, 385-86, 388-95.) He just "assumed that it was handled correctly." (DF-358-59, 364-66, 370.) That is "exactly the opposite" of what the auditing standards require. (ID-109; *see also id.* at 39.)

By failing to document the red flags described above, Deutchman also violated AS 3, which requires an auditor to document differences in professional judgment and information that contradicts the auditor's conclusions. (ID-40.) Deutchman never documented the CFO's repeated warnings that the consolidation of BHCA was inappropriate. (ID-35, 40; DF-326.) In fact, not one workpaper, throughout all five of Deutchman's engagements, even addressed BHCA's consolidation. (DF-282, 355, 386.)

Deutchman also violated AS 7 by inappropriately blending the roles of EQR and engagement partner in Accelera's 2014 audit. Even though he was originally staffed as the engagement partner, and he played that role during the audit, Deutchman signed off as the EQR. (ID-33-34, 42; DF-306-10.) Thereby, Deutchman deprived Accelera and the investing public of the independent review mandated by the accounting standards. (ID-42.)

In his response to the ALJ's findings, Deutchman tries to deflect blame onto Accelera's CFO in several ways. First, Deutchman suggests that he would have run afoul of auditor independence rules if he had engaged with Accelera's CFO on this issue. (RB-10.) But auditor independence rules do not bar auditors from consulting with management. (ID-94; DRWF-648.) Anyway, Deutchman's audit failures are not really about his failure to "provide guidance" to

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Accelera's CFO. Even if Deutchman never spoke one word to the CFO, he could have – and should have – performed appropriate audit inquiries and analyzed the subject agreements.

Second, Deutchman takes issue with the manner in which the CFO raised his concerns, suggesting that because he did not prepare a "memorandum documenting his concerns tying to ASC 805, ASC 820 and the relevant contract language," Deutchman did not need to act on them. (RB-11.) There is no requirement that contrary audit evidence be reduced to a formal memorandum. (DRWF-592.) To the contrary, the auditing standards require auditors to exercise "professional skepticism" and to document, investigate, and resolve any issues or contradictory audit evidence. *See* AU 333.04, AU 722.26, AS 3.8, AS 7.12, AS 7.17, AS 15.11, AS 15.29.

C. Chung Engaged in Highly Unreasonable Conduct.

The ALJ correctly found that Chung engaged in highly unreasonable conduct, repeatedly violated PCAOB standard AS 7 (*Engagement Quality Review*), and failed to exercise due professional care under AU 230, when she acted as EQR on CannaVEST's first quarter interim review. (ID-84-86, 105-06.) Chung was supposed to act as the back-stop on the engagement team's interim review, reviewing the significant judgments and related conclusions of the engagement team. (ID-84-86; DF-821-26.) But she clearly failed in her duties, simply rubber-stamped her concurring approval, and thereby assisted Wahl's reckless and hasty review. (ID-105-06; DF-828-45.) She was also not qualified to act as the EQR because she lacked the requisite level of competence under PCAOB standard AS 7. (ID-84-85, 105; DF-846-52.)

During the CannaVEST first quarter interim review, Chung failed to conduct an adequate engagement quality review by failing to identify a myriad of significant engagement deficiencies, failing to hold discussions with other members of the engagement team, and failing to adequately review the workpapers. (ID-86; DF-830-38.) As a result, Chung failed to identify

that the engagement team did not make adequate inquiries of management, did not properly plan the engagement, and did not prepare adequate documentation for the engagement. (*Id.*)

Chung failed to identify that the engagement team did not make adequate inquiries of management related to the PhytoSphere transaction, namely, the fair value of CannaVEST's shares as of January 29, 2013, and the fair value of the PhytoSphere assets acquired. Chung admitted during the CannaVEST investigation that if a client had a $35 million acquisition, she would have asked the client to obtain a valuation related to the acquisition as support for the $35 million. But in her role as EQR, she never suggested to the engagement team that CannaVEST obtain an independent valuation to determine fair value. (DF-832-834.)

In addition, Chung failed to identify that the engagement team did not properly plan the first quarter interim review. The planning memo was devoid of any inquiries related to the fair value of the PhytoSphere transaction, it did not mention that ASC 805 and 820 were the GAAP standards that applied to the transaction, and it failed to address CannaVEST's material weakness in internal control. Chung did not identify any of these planning failures. (*Id.* at 830-38.)

Furthermore, Chung failed to identify that the workpapers lacked the necessary documentation to support the conclusions reached by the engagement team. (ID-86; DF-836-38.) Again, the workpapers were devoid of any inquiries made by the engagement team regarding the fair value of that transaction. (*Id.*) In fact, a question from the inquiries checklist was marked "no" in response to whether CannaVEST's assets had been recorded at fair value in accordance with GAAP. (DF-871, 839-42.) The workpapers also did not discuss CannaVEST's material weakness in internal control, the associated risk of material misstatement, and plans to address that risk, such as making additional inquiries or performing additional procedures. (*Id*. at 870.)

Moreover, the ALJ found that Chung was not qualified to act as an EQR under AS 7. (ID-84-85.) Under AS 7.5, the EQR "must possess the level of knowledge and competence related to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review." (ID-85.) Chung argues that she was competent to serve as an EQR. (RB-20.) Chung, however, had no prior experience as an engagement partner or audit manager, her only audit experience was in low-level staff accountant positions, that experience was five years before the CannaVEST engagement, and at Anton & Chia she only served as an EQR on two or three engagements. (*Id.*; DF-845-59.) Notably, Chung claimed that she had a copy of AS 7 whenever she did an interim review, and thus knew or at a minimum should have known that she did not satisfy the AS 7.5 competency standard. (ID-105; DF-850.) In addition, Chung could not say whether she would have been comfortable serving as the engagement partner on the CannaVEST engagement. (ID-85; DF-850.) Chung was also not familiar with ASC 820 and could not recall having applied ASC 805 before working on the CannaVEST engagement. (ID-85; DF-851.)

As a result of Chung's "perfunctory and wholly insufficient review" in the CannaVEST engagement and her failure to meet the competency requirements of AS 7, the ALJ found that Chung violated multiple professional standards, abandoned her professional responsibilities, failed to exercise due professional care, and engaged in highly unreasonable conduct under Rule 102(e). (ID-105-106; DF-898.)

IV. THE RECORD SUPPORTS THE ALJ'S CONCLUSION THAT RESPONDENTS VIOLATED THE SECURITIES LAWS.

The Commission should affirm the ALJ's conclusion that Wahl and Deutchman violated the federal securities laws for two independent reasons. First, Respondents did not raise any challenges to these findings in their opening brief and, thus, waived them. *Dembski*, Securities

Act Release No. 4671, 2017 WL 1103685, at *8 & n.15 (Mar. 24, 2017). Second, the evidentiary record amply supports the ALJ's conclusion. Wahl and Deutchman's willful violations of the federal securities laws constitute an independent basis to bar them from practicing before the Commission as accountants. *See* Rule 102(e)(1)(iii).

A. Wahl Willfully Violated Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder.

The ALJ correctly found that Wahl violated Exchange Act Section 10(b) and Rule 10b-5 (collectively, "Section 10(b)") by approving Anton & Chia's false and misleading audit report included with Premier's 2013 Form 10-K. (ID-3, 96; DF-260, 374, 531-35.) That report falsely stated that: (i) Anton & Chia's audit was conducted according to PCAOB standards, and (ii) Premier's financial statements complied with GAAP. (ID-96-97; DF-531-35.) The evidence, however, demonstrates neither statement was true; yet, Wahl recklessly approved the audit report anyway. (*See* Section III(A)(2), *supra*.)

Wahl is liable for violating Section 10(b) if he made: (1) a misrepresentation; (2) of material fact; (3) with scienter; (4) in connection with the purchase or sale of securities; (5) by jurisdictional means. *China Ruitai Int'l Hldgs. Co.*, Initial Decision Release No. 651, 2014 WL 3835770, at *7 (ALJ Aug. 5, 2014). An auditor who knowingly or recklessly prepares or approves false statements in an audit report that he knows will be included with the issuer's Form 10-K filed with the Commission violates Section 10(b). *McGann v. Ernst & Young*, 102 F.3d 390, 397 (9th Cir. 1996). As the audit engagement partner and 90% owner of Anton & Chia, Wahl is responsible for making the false statements in the report because he possessed "ultimate authority" over the report. (ID-96; DF-2, 4, 537.) *Janus Capital Grp. v. First Derivative Traders*, 564 U.S. 135, 141-42 (2011); *S.W. Hatfield, CPA*, Exchange Act Release No. 73763, 2014 WL 6850921, at *6 (Dec. 5, 2014).

The ALJ ruled, based on the extensive evidence presented during the hearing, that the two statements in Anton & Chia's 2013 Premier audit report were false. As described above (Section III(A)(2)), the audit violated numerous PCAOB standards. (ID-96-97.) The report also inaccurately represented that, in Anton & Chia's opinion, Premier's financial statements complied with GAAP. (*Id*.) To the contrary, Premier's financial statements included a "baseless valuation of the Note" and misallocated "the entire TPC transaction to goodwill," both of which violated GAAP. (*Id*.)

These misstatements were material because there is a substantial likelihood that a reasonable investor would view these misrepresented facts "as having significantly altered the 'total mix' of information made available." *See Matrixx Initiatives, Inc. v. Siracusano*, 563 U.S. 27, 38 (2011) (quoting *Basic Inc. v. Levinson*, 485 U.S. 224, 231–32 (1988)). Premier's financial statements valued a ***worthless*** Note at $869,000, inflating its balance sheet by nearly 13%. (ID-97; Section III(A)(2)(a).) Those financial statements also improperly assigned the entire $4.5 million TPC purchase price to goodwill, despite the facts that the allocation was overdue and, by means of the acquisition, Premier had acquired 80% of TPC's net revenue from TPC's contracts. By doing so, Premier's financial statements misclassified 65% of its total assets. (*Id*.; Section III(A)(2)(b).) Together, the Note ($869,000) and TPC's goodwill ($4.5 million) accounted for 78% of the total assets on Premier's balance sheet. (*Id*.; Section III(A)(2).)

The record also supports the ALJ's determination that Wahl acted with scienter because, at a minimum, he acted with "extreme recklessness." *See Gebhart v. SEC*, 595 F.3d 1034, 1040 (9th Cir. 2010). An auditor acts recklessly when he acts with an "egregious refusal to see the obvious, or to investigate the doubtful, or that the accounting judgments which were made were such that no reasonable accountant would have made the same decisions if confronted with the

same facts." *New Mexico State Inv. Counsel v. Ernst & Young LLP*, 641 F.3d 1089, 1097-98 (9th Cir. 2011) (quote and cite omitted). Wahl repeatedly disregarded clear signals that the Note valuation was wrong and unsupported. (Section III(A)(2)(a).) He also signed off on continuing to allocate the entire TPC purchase price to goodwill and failed to ensure a proper goodwill impairment analysis was performed. (ID-98-100; Section III(A)(2)(b).) Based on all the evidence, the ALJ correctly found that "Wahl recklessly disregarded" red flags, "gross[ly] disregard[ed]" the applicable accounting and auditing rules, and acted with "scienter." (*Id*.)

Section 10(b)'s "in connection with" requirement is also satisfied. Anton & Chia's false audit report was filed with the Commission as part of Premier's 2013 Form 10-K. "[A]n accounting firm acts 'in connection with' securities trading when it produces an audit report that it knows its client will include in a Form 10–K." *McGann v. Ernst & Young*, 102 F.3d 390, 397 (9th Cir. 1996).

Lastly, Section 10(b) requires that the fraud occur, "directly or indirectly, by the use of any means or instrumentality of interstate commerce or the mails, or of any facility of any national securities exchange." This requirement is "minimal." *Kauffman v. Yoskowitz*, No. 85 CIV. 8414 (PKL), 1989 WL 79364, at *7 (S.D.N.Y. July 13, 1989). "All that is necessary is that the jurisdictional means be used in any phase of the transaction or to further the transaction." *SEC v. Rana Research, Inc.*, 1990 WL 267365, at *18 (C.D. Cal. Oct. 2, 1990), *aff'd*, 8 F.3d 29 (9th Cir. 1993). Where, as here, misstatements appear in filings made with the Commission, this jurisdictional requirement is satisfied. *See SEC v. Straub*, 2016 WL 5793398, at *11 (S.D.N.Y. Sept. 30, 2016); *McConville v. SEC*, 2005 WL 1560276, at *10 (June 30, 2005).

B. Wahl and Deutchman Willfully Aided and Abetted Anton & Chia's Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder.

The ALJ also found that Wahl and Deutchman aided and abetted Anton & Chia's

securities fraud. The Commission should uphold those findings both because Respondents waived any challenges to them and because they are supported by the record.

To establish liability for aiding and abetting, the Division must show: "(1) that a principal committed a primary violation; (2) that the aider and abettor provided substantial assistance to the primary violator; and (3) that the aider and abettor had the necessary 'scienter' – *i.e.*, that she rendered such assistance knowingly or recklessly." *Graham v. SEC*, 222 F.3d 994, 1000 (D.C. Cir. 2000).

Here, Anton & Chia committed primary violations of Section 10(b) in connection with the Premier and Accelera engagements. As to Premier, Wahl's conduct and state of mind, described above, can be imputed to Anton & Chia. *SEC v. Platforms Wireless Int'l Corp*, 559 F. Supp. 2d 1091, 1095 (S.D. Cal. 2008), *aff'd*, 617 F.3d 1072 (9th Cir. 2010); *SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082, 1089 n.3 (2d Cir. 1972).

The ALJ also ruled that Anton & Chia committed fraud in connection with its 2014 audit of Accelera, This time, it was Deutchman's recklessness that was imputed to Anton & Chia. (ID-91-95; Section III(B), *supra*.) As with the false statements in the 2013 Premier audit report that Wahl approved, Anton & Chia's report for its 2014 audit of Accelera misrepresented that Accelera's financial statements complied with GAAP and that Anton & Chia's audit complied with PCAOB standards. (ID-91; DF-257-60.) The financial statements did not comply with GAAP because they improperly consolidated Accelera and Behavioral, causing Accelera's revenues to be overstated by 90% and millions of dollars. (ID-92; DF-195-201; Section III(B).) And Anton & Chia repeatedly violated PCAOB standards while performing the audit. (ID-38-43; Section III(B).) As the EQR for the audit, Deutchman recklessly and repeatedly ignored numerous red flags indicating that Accelera never acquired Behavioral and they never should

have been consolidated. (ID-38-43, 92-93; Section III(B).)

For similar reasons, Wahl and Deutchman each substantially assisted Anton & Chia's primary violations. Wahl, as the engagement partner, authorized the inclusion of Anton & Chia's reports on 2013 Premier's financial statements. (ID-96; Section III(A)(2).) Deutchman, as the EQR, provided concurring approval for Anton & Chia's 2014 audit of Accelera, and performed duties that are typically associated with the engagement partner. (ID-92-93; Section III(B).) Without their approvals, Anton & Chia would not, under the PCAOB standards, have been able to issue the audit reports. *See* AS No. 10.3 (*Supervision of the Audit Engagement*); AU 508.07-.08 (*Reports on Audited Financial Statements*).

Finally, they acted with scienter. Their same reckless behavior that was imputed to Anton & Chia to establish its primary violations of Section 10(b) satisfies the scienter requirement, sealing their liability for aiding and abetting those violations. (ID-93-94, 98-100; Sections III(A)(2), III(B).) *See SEC v. Koenig*, No. 02 C 2180, 2007 WL 1074901, at *6 (N.D. Ill. Apr. 5, 2007) (defendant's scienter as CFO was sufficient to establish both the company's violation of Section 10(b) and defendant's liability for aiding and abetting company's violation).

C. Wahl and Deutchman Willfully Aided and Abetted and Were Causes of Violations of Section 13(a) of the Exchange Act.

The Commission should affirm the ALJ's findings that Wahl and Deutchman aided and abetted, and were causes of, Accelera's and Premier's violations of Exchange Act Section 13(a) and Rule 13a-1 and 13a-13 (collectively, "Rule 13a"). Once again, Respondents waived any challenges by not raising them in their opening brief. Moreover, the evidentiary record supports the ALJ's determinations.

The relevant provisions of Rule 13a require issuers to file annual and quarterly reports with the Commission. Implicit in these provisions is the requirement that the information be true,

correct, and complete. *See, e.g.*, *Howard v. Everex Systems, Inc.*, 228 F.3d 1057, 1061-62 (9th Cir. 2000). Scienter is not required. *SEC v. McNulty*, 137 F.3d 732, 740-41 (2d Cir. 1998).

As discussed above, aiding and abetting liability requires proof of: (1) a primary violation; (2) substantial assistance by the respondent; and (3) the necessary scienter. *Graham*, 222 F.3d at 1000. A "causing" violation contains nearly identical elements: (1) a primary violation of the securities laws; (2) an act or omission by the respondent that was a cause of the violation; and (3) the respondent knew, or should have known that his conduct would contribute to the violation. *Robert Fuller*, Securities Act Release No. 8273, 2003 WL 22016309, at *4 (Aug. 25, 2003) (Commission opinion). Negligence is sufficient to establish liability for causing a primary violation if the primary violation does not require scienter. *See KPMG Peat Marwick LLP*, Securities Act Release No. 1360, 2001 WL 47245, at *19-20, (Jan. 19, 2001). Given the similarities, "[o]ne who aids and abets a primary violation is necessarily a 'cause' of the violation." *Ronald S. Bloomfield*, Exchange Act Release No. 71632, 2014 WL 768828, at *16 (Feb. 27, 2014), *pet. denied*, 649 F. App'x 546 (9th Cir. 2016).

For all the reasons explained above (Sections III(A), III(B), and IV(C)), the hearing evidence fully supports the ALJ's ruling that Wahl and Deutchman aided and abetted, and caused, Accelera's and Premier's violations of Section 13(a). Accelera and Premier committed primary violations of Rule 13a by filing false Forms 10-K (Accelera and Premier) and 10-Q (Accelera). Wahl and Deutchman substantially assisted and were a cause of those violations, because, as engagement partner and EQR, they signed off on the inaccurate financial statements and approved Anton & Chia's misleading audit reports. In doing so, they acted recklessly by ignoring multiple red flags clearly demonstrating that the issuers' financial statements were misstated in significant respects.

D. Wahl and Deutchman Willfully Aided and Abetted and Were Causes of Anton & Chia's Violations of Rule 2-02(b) of Regulation S-X.

The ALJ also found Wahl and Deutchman liable for willfully aiding and abetting Anton & Chia's violations of Rule 2-02(b) of Regulation S-X. (ID-103-04.) Even assuming purely for the sake of argument Respondents had not also waived challenges to these findings, here too the ALJ's decision is well grounded in the evidentiary record.

Regulation S-X requires that the financial statements included in the issuer's Form 10-K be certified by an independent accountant and include a report from the accountant that complies with the requirements of Rule 2-02. Rule 2-02, in turn, requires the accountant to certify that the audit complied with applicable auditing standards and that, in the accountant's opinion, the issuer's financial statements are consistent with applicable accounting principles. An accounting firm violates Rule 2-02 if its report incorrectly states that these standards have been met. (ID-103 (*citing KPMG Peat Marwick*, 2001 WL 47245, at *19); *see also BDO USA, LLP,* Exchange Act Release No. 75862, 2015 WL 5243894 (Sept. 9, 2015) (settled order).)

Anton & Chia's audit reports on Accelera's 2013 and 2014 Form 10-Ks and Premier's 2013 Form 10-K violated Rule 2-02. As described above, all three reports falsely certified that: (1) Anton & Chia's audits complied with applicable auditing standards and (2) the issuer's financial statements were prepared in accordance with GAAP. (Sections III(A) and III(B); DF-257-58, 371-72, 531-34.)

Moreover, Deutchman (Accelera 2014) and Wahl (all three) substantially assisted Anton & Chia's violations. (ID-103-04.) And the record is teaming with evidence supporting the ALJ's finding that Wahl and Deutchman recklessly conducted the audits and approved Anton & Chia's false audit reports. (ID-99-104; Sections III(A) and (B).)

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V. RESPONDENTS' OTHER LEGAL CHALLENGES ALL FAIL.

A. The Professional Standards that Respondents Violated are Obligatory.

Respondents incorrectly argue that many of the standards that the ALJ found they violated were optional, or mere suggestions. They claim that where an auditing standard uses the word "shall" or "should," that standard is not an obligation but a suggestion – equivalent to the word "may." (RB-10 n.45.) Relatedly, Respondents accuse both the Division and its expert of having "change[d] GAAP and GAAS" by using words like "must" or "requires" to summarize (but not quote) GAAP and the auditing standards. (RB-1, 10, 14.)

As the ALJ held, Respondents are wrong. The PCAOB considers "shall" to denote an "unconditional responsibility" and "should" to be "presumptively mandatory." PCAOB Rule 3101(a)(1)-(2), *Certain Terms Used in Auditing and Related Professional Practice Standards*; *see also Aesoph*, 2016 WL 4176930, at *13 n.56. The FASB holds that the words "shall" and "should" both represent "the requirement to apply a standard." FASB "About the Codification" v4.10 (Dec. 2014). As the ALJ held, the fact that Respondents did not – and today still do not – understand the meaning of the words "shall" and "should" in the professional standards that they were required to follow evidences their lack of competence to practice before the Commission. (ID-38 n.15.)

B. The Initial Decision Appropriately Considered Devor's Testimony.

During the hearing, the Division presented the testimony of a highly qualified expert, Harris Devor, on which the ALJ appropriately relied. Respondents lob unsupported criticism at Devor and generally mischaracterize an expert's role in this matter. But their expert-related

arguments all fail.[6] Respondents claim that Devor was "impeached," and that the Division therefore has "no expert to opine on the US GAAP and GAAS standards." (RB-8.) They argue that, without an expert, the Division has no evidence of what a "reasonable accountant" would have done in the engagements at issue, and therefore the Division cannot meet its burden of proof. (*Id.* at 2.) The Respondents are wrong in every respect.

First, Devor was never "impeached." To the contrary, after voir dire and four days of testimony, the ALJ found that Devor was qualified and that he "showed his competence and understanding of the subject matter." (ID-10, 12.) Respondents' criticism that Devor has not recently audited a public company (RB-15 n.78) is irrelevant. As the ALJ found, Devor's qualifications – including his 46 years of accounting experience and "extensive[]" experience as an expert witness in "high-profile public accounting cases" – qualify him as an expert here. (ID-11-12.) Also, as the ALJ noted, there are very few differences in accounting issues and standards between private and public companies, and Respondents identified no differences pertinent to this case. (ID-12.)

Second, Respondents fundamentally misconstrue the role of an expert in this proceeding. Respondents wrongly argue that the Division cannot meet its burden without an expert to opine on Respondents' compliance with GAAS and GAAP. (RB-2 ("[T]he Division can't meet this standard since they don't have anyone that is 'credible and convincing' to assess the evidence and determine whether the financial statements comply with GAAP and GAAS.").) It was the ALJ's role, not Devor's, to assess the evidence and determine whether the Respondents complied with the standards. (*See* ID-14 (declining to rely on Devor's testimony for "mixed question[s] of

[6] Respondents have not appealed the ALJ's decisions regarding Respondents' own experts to – (1) give Misuraca's CannaVEST opinions no weight because of Wahl's perjury (ID-17-18), (2) limit Misuraca's Premier opinions (ID-18), and (3) exclude William W. Holder's unsworn report (ID-18-19).

law and fact," such as whether certain conduct violated GAAP or the PCAOB standards).) And now that Respondents have appealed, this is the role of the Commission – a role for which the Commission is more than qualified. *See Wendy McNeeley, CPA*, Exchange Act Release No. 68431, 2012 WL 6457291, at *18 (Dec. 13, 2012) ("the Commission has its own expertise" as to the accounting standards); *see also Gregory M. Dearlove*, *CPA*, Exchange Act Release No. 34-57244, 2008 WL 281105 (Jan. 31, 2008).

Respondents' argument was rejected in *Dearlove v. SEC,* 573 F.3d 801 (D.D.C. 2009). In *Dearlove*, the respondent argued that to establish that his conduct was "unreasonable" underRule 102(e), the SEC had to provide expert testimony about his compliance with the standard of care. *Id.* at 804. The court rejected that argument, holding that the appropriate standard of care is supplied by the generally accepted auditing standards themselves, and it was the province of the finder of fact to "engage in an objecting inquiry whether [respondent's] conduct was unreasonable in the specific factual circumstances at issue." *Id.* at 805-06. Here, that is precisely what the ALJ did.

C. The ALJ Did Not Disregard or Ignore Evidence.

Respondents repeatedly argue that the ALJ – sometimes on the basis of AS 3 (*Audit Documentation*) – disregarded or ignored evidence. (RB-8-23.) Respondents are incorrect, however, that the ALJ ignored any evidence, on the basis of AS 3 or otherwise. In fact, the ALJ admitted almost all of Respondents' proffered exhibits, heard their testimony and that of their witnesses, and issued a substantial, well-reasoned decision that discussed the evidence offered by Respondents and explained the basis for his findings.

With respect to Accelera, for example, contrary to Respondents' assertion that the ALJ ignored provisions of the SPA and the ancillary agreements (RB-9-10), the ALJ thoroughly considered the provisions of each of those agreements and concluded that none of them

supported Respondents' contention that the acquisition of BHCA had occurred. (ID-22-30, 95.) The ALJ also considered the accounting principles for variable interest entities and found that they did not apply to the purported acquistion. (ID-25 n.11; DRWF-693.)

And in his findings about Premier, the ALJ did not disregard Wahl's testimony about his undocumented explanations as to why he thought $869,000 was a reasonable valuation for the Note. (RB-13.) The ALJ considered Wahl's arguments and found them unconvincing. (ID-60-61.)

Nor did the ALJ fail to consider exhibits documenting the audit adjustments Anton & Chia required of Accelera and Premier. (RB-13, 24.) In fact, the ALJ addressed the significance of the adjustments Anton & Chia required of both Accelera (ID-37, 92 n.33) and Premier (ID-99-100).

Respondents also claim that the ALJ did not consider Anton & Chia's quality controls or the work of its "quality control advisors," which they assert were evidence that "Wahl and Chung were serious competent professionals." (RB-3.) The overwhelming evidence in this case, however, demonstrates the opposite – Wahl and Chung did not take their responsibilities seriously, resulting in significant deviations from PCAOB standards and their failure to identify material misstatements.[7]

[7] In any event, Respondents' argument about quality controls the ALJ supposedly intentionally ignored (RB-3) should be rejected for several reasons. First, Respondents' assertion that quality control advisor Garbutt viewed as "unprecedented" Wahl's paying him to "shadow" the engagement teams is misleading in several respects. First, Respondents take Garbutt's use of the word "unprecedented" completely out of context, selectively quoting from an email Garbutt sent to Wahl in March 2016 (Ex. 310, 3 (pdf)) – long after the engagements at issue. In the email, Garbutt used some prefatory praise to soften the impact of a lengthy list of Anton & Chai quality control deficiencies: "The firm has and is investing a significant amount of resources in having me involved from a best practice consultative role in the more significant jobs of the firm. This included the ***almost unprecedented*** **investment of having me present** ***for the planning meetings*** to make sure the engagements start off right." (*Id*. (emphasis added).) In addition, Respondents offered no evidence at the hearing that Garbutt "shadowed" Anton & Chai engagement

To the extent that the ALJ included AS 3 as grounds to reject Wahl's and Deutchman's post-hoc explanations for their auditing failures, he had a sound basis for doing so. AS 3 requires that audit and interim review documentation "clearly demonstrate that the work was in fact performed" and "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." (AS 3.6.)[8] *See also John J. Aesoph, CPA*, Exchange Act Release No. 78490, 2016 WL 4176930, at *11 (Aug. 5, 2016) ("if audit documentation does not exist for a particular procedure or conclusion related to a significant matter, it casts doubt as to whether the necessary work was done") (quoting AS 3, App. A, A10); *Wendy McNeeley, CPA*, Securities Act Release No. 68431, 2012 WL 6457291, at *13 (Dec. 13, 2012) (Commission opinion) ("[w]e consider the absence of work papers to be evidence that the audit team did not devote substantial, if any, effort to review the areas in question.") (citing *Gregory M. Dearlove*, Exchange Act Release No. 34-57244, 2008 WL 281105, at *10 n.39 (Jan. 31, 2008)). If the auditor contends that the undocumented procedures did in fact occur, the PCAOB made clear that the auditor "must have persuasive other evidence that the procedures were performed, evidence was obtained, and appropriate conclusions were reached. . . . [O]ral explanation alone does not constitute persuasive other evidence." (*Audit Documentation and Amendment to Interim Auditing Standards*, 4 (pdf), PCAOB Release No. 2004-006 (June 9, 2004).)

Here, Respondents offered no persuasive evidence that the undocumented procedures

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teams. (DRWF-85.) Second, the proposed findings of fact cited in support of this argument are unsupported by record evidence, irrelevant, or both. (DRWF-80-92.)

[8] The ALJ appropriately found that Wahl and Deutchman violated AS 3 in all the engagements because they failed to require adequate audit documentation. (ID-40, 64-66.)

had occurred or conclusions had been reached. Their assertions about procedures and considerations not documented in the workpapers were supported only by Wahl's and Deutchman's self-serving hearing testimony which was contrary to the record as a whole. Moreover, the ALJ's findings that relate to Wahl's credibility – *e.g.*, his perjury and his direction to another Anton & Chia partner to tell PCAOB inspectors he had performed work that had not been done – can also be taken into consideration when weighing the evidence. (ID-15-19, 111-12.)

In sum, contrary to Respondents' arguments, the ALJ did not disregard critical evidence. Rather, the ALJ simply did not credit Wahl's and Deutchman's post-hoc justifications in the face of overwhelming evidence of their numerous audit failures.

D. Respondents Have Not Otherwise Been Denied Due Process.

Respondents argue that this proceeding has deprived them of due process and resulted in a regulatory taking in violation of the Fifth Amendment. (RB-7.) Their argument should be rejected. The evidentiary portion of the hearing took place over the course of 25 days, and Respondents fail to identity any testimonial or documentary evidence that they were prevented from introducing at the hearing. Wahl testified on direct examination, assisted by specially appointed counsel, for seven days, called his own witnesses, and cross-examined each of the Division's witness. Clearly, he had every opportunity to present an explanation for his deficient audits and interim reviews in connection with the Accelera, Premier, and CannaVEST engagements. Similarly, both Deutchman and Chung testified in their own defense. Judge Patil carefully considered Respondents' testimony and documentary evidence and rejected their explanations. While Respondents may think that the outcome of the hearing is unfair, they received all the process they were due. *See Matthews v. Eldridge*, 424 U.S. 319, 333 (1976); *Feins*, Exchange Act Release No. 41943, 1999 WL 770236, at *7 (Sept. 29, 1999).

Respondents also request over $167 million in "damages" from the Division staff. (RB-1.) The Rules of Practice, however, do not permit Respondents to assert counterclaims for damages against the Commission. (ID-9.) Furthermore, to the extent Respondents' reputations may have been harmed as a result of the Commission' issuance of a press release stating that the OIP had been filed, such reputational harm does not give rise to a takings or due process violation under the Fifth Amendment. *Paul v. Davis*, 424 U.S. 693, 712 (1976). (*See also* ID-7-8.)

VI. THE COMMISSION SHOULD IMPOSE SANCTIONS IN THE PUBLIC INTEREST.

A. The Initial Decision Correctly Applied the Relevant Standards in Determining Sanctions.

The ALJ meticulously and correctly applied the *Steadman* factors to Respondents' conduct. (ID-107-116.) Respondents' arguments to the contrary all fail.

Respondents argue that the "collateral impact of sanctions on the respondent" should militate against sanctions. (RB-23.) Respondents' bars are not "collateral," but an intended and necessary impact. Their failure to acknowledge the wrongful nature of their conduct or provide assurances against future violations (*see* ID-111) suggests a risk that they will commit future violations, if not prevented from doing so. *Aesoph*, 2016 WL 4176930, at *22-23.

Respondents also argue that it is unfair to impose a sanction on them for advancing a "vigorous defense." (RB-24.) As the ALJ held, "due process is not violated where a respondent is given the option to recognize the wrongfulness of [his] conduct or refusing to do so and risking more severe remedial action.'" (ID-111 (quoting *Seghers v. SEC*, 548 F.3d 129, 136 (D.C. Cir. 2008)).) Here, Respondents' failure to recognize their wrongdoing is particularly egregious, because the errors were obvious. Even Accelera and CannaVEST acknowledged their errors by restating their financial information. (ID-111; DF-192-194, 892.)

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Finally, Respondents note that the Division introduced "no evidence of investor harm" (RB-28), but proof of harm is not required, and Respondents' conduct did cause harm. *See vFinance Invs., Inc.*, Exchange Act Release No. 62448, 2010 WL 2674858, at *17 (July 2, 2010) ("The absence from the record of evidence demonstrating any direct customer harm is not mitigating, as our public interest analysis focus[es] … on the welfare of investors generally.") (internal quotation marks omitted); *see also Robert W. Armstrong III*, Exchange Act Release No. 2264, 2005 WL 1498425, at *15 (June 24, 2005). Respondents harmed market efficiency by depriving investors of accurate information. (ID-115.) They also harmed the integrity of the Commission's own processes. *Touche Ross & Co. v. SEC*, 609 F.2d 570, 581-82 (2d Cir. 1979).

1. Wahl's Conduct Merits a Permanent Bar and Cease-and-Desist Order.

Wahl's conduct was "egregious," recurring, and "reckless." (ID-108-16, 119.) He rubber-stamped misstated financial statements, in the face of glaring red flags, when even minimal inquiries would have uncovered the issuers' misrepresentations. *See, supra*, Section III(A). Wahl's violations spanned over multiple years (early 2013 through August 2016) and three different issuer clients. (ID-109.)

Further, Wahl has never recognized the wrongfulness of his conduct, or provided any assurances against future misconduct. (ID-111-12.) Even after the mountain of evidence presented at trial, he maintains that there were "no mistakes" in any of the engagements at issue and that he would account for the key transaction the same way today. (ID-111; DF- 908.) In fact, Wahl has shown contempt for the Commission and the rules that it enforces, describing the Division's charges as "bullsh-t" and the PCAOB standards as "a joke." (DF- 910.) He never even looked at the two most recent inspection reports produced by the PCAOB, which identified numerous deficiencies at Anton & Chia. (ID-112; DF-905.) He even instructed an employee to

create the misimpression that he had performed work that he had not performed, for a PCAOB inspection. (ID-112; DF-903.)

Wahl has shown no understanding of the import of his role as an auditor. He testified that an auditor's role is only sometimes important, depending on the "type of company" he is auditing. (DF-906.) At Anton & Chia, he was much more concerned with growing the firm at a reckless pace than he was ensuring audit quality, and his conduct has demonstrated a "lax approach to wrongdoing." (ID-112; DF-7-9.)

Moreover, even if Wahl had provided assurances against future misconduct, which he did not (ID-111), he has shown that his word cannot be trusted. Wahl repeatedly lied to the Commission staff. (DF-904, 922.) Worse yet, as the ALJ found, he submitted a falsified document to his own expert witness, and committed perjury by lying about it to the Court. (ID-15-19, 111-12, 115-16; DF-924-39.) Wahl provided his expert, John Misuraca, a financial forecast purportedly effective during the first quarter interim review of CannaVEST. (ID-15-16, 111-12, 115-16; DF-925.) This forecast, which was the ***sole*** document Misuraca relied upon for his opinion regarding the CannaVEST matter, was doctored by Wahl. (ID-16-17, 111-12, 115-16 & Appendix; DF-930-35.) Later, Wahl committed perjury, by falsely claiming that he merely "copied and pasted" an existing projection into an email, when in reality he made the financial projections up out of whole cloth. (ID-17, 111-12, 115-16; DF-937-39.) Based upon this conduct, the ALJ correctly found that Wahl perjured himself and justifiably relied, in part, upon this misconduct in determining that sanctions were in the public interest. (ID-18-19, 111-12, 115-16.)

Finally, Wahl will have future opportunities to violate. He now has a new company, NorAsia, where he performs consulting work for both public and private companies. (ID-113; DF-911-13.) Although he claimed in his March 15, 2019 Motion to Dismiss that he "had no

interest" in audit work, ***that very month*** Wahl was reviewing the financial statements for public company, Max Sound Corporation. (ID-113, DF-914-23.) Although Wahl self-servingly characterized his work as "consulting," he reviewed the publicly-filed financial statements for "material differences," was paid for his work, and reviewed and approved an audit opinion affixed to Max Sound's Form 10-K under his name, G.A. Wahl. (*Id.*)

Wahl also recently did work for a public company in the summer of 2020. In July 2020, Wahl, through NorAsia, prepared a valuation report applying ASC 340, 350, and 820 to determine the value of certain contracts for the public company. Ameri Metro, Inc. ("Ameri") Form 10-K, filed November 12, 2020, exhibit 99.61, *94-108. Wahl signed the valuation report (*Id.* at *95, 108), which was attached as an exhibit to the company's Form 10-K. It also appears that Wahl, through NorAsia, assisted the company's management in August 2020 with preparing another valuation report to determine the value of the company's shares. The company filed a Form 8-K, disclosing and attaching the report. Ameri Form 8-K, filed September 9, 2020, exs. 99.1 and 99.2.

Wahl's one-page biography, attached to the July 2020 valuation report, discusses his 20+ years accounting and auditing experience, stating for example, that he "regularly supervises engagements for companies that are completing going public transactions (Form 10, Form S-1, and reverse takeover transactions) and secondary public offerings for companies." Ameri Form 10-K, exhibit 99.61, at *109. Wahl's work and description of his experience shows that he plans to continue providing services to public companies, which provides future opportunities for him to violate the federal securities laws.

In summary, Wahl's contemporaneous work on all three engagements, Premier, Accelera, and CannaVEST, demonstrate that he is unfit to appear or practice before the Commission. And

his after-the-fact justifications for his egregious conduct and shoddy work only amplify the need for significant remedial relief. Wahl has demonstrated both a woeful lack of insight, contending that he got things 1000% right, and a propensity to prevaricate, most clearly demonstrated by his deception of his falsifying evidence for his expert to consider, and then lying under oath about it. In short, Wahl cannot be trusted to uphold the standards of his profession.

Under Section 4C of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice, Wahl should be denied the privilege of appearing or practicing before the Commission as an accountant. For the reasons discussed herein, including the egregiousness and repeated nature of his misconduct, the ALJ correctly determined that Wahl's bar should be permanent, without the right to apply after a period of years. (ID-119.) Wahl's failure to acknowledge the wrongful nature of his conduct or provide assurances against future violations also suggest a risk that they will commit future violations, if not prevented from doing so with a permanent bar.

Under Exchange Act Section 21C(a), the Commission may enter a cease-and-desist order against any person who, like Wahl, has violated any provision of the Exchange Act, or been a cause of such a violation. As the ALJ correctly found, Wahl's repeated violations, dismissive behavior throughout these proceedings, and opportunity to commit future violations all weigh in favor of awarding a cease-and-desist order. (ID-107-16.)

2. Deutchman's Conduct Merits a Permanent Bar and Cease-and-Desist Order.

As the ALJ found, Deutchman's misconduct was egregious. (ID-108-109; *supra* Section III(B).) It recurred across five engagements over two years. (ID-109; DF-5.) He acted recklessly. (ID-110.) He has provided no assurances against future violations. (ID-111.) And he never recognized the wrongful nature of his conduct with respect to Accelera, or to the conduct that led to his two previous sanctions for audit-related misconduct. (ID-110, 112; DF-899-02, 909.) A

permanent bar is particularly necessary for Deutchman, because the "less stringent sanctions" for his two prior violations "proved to be insufficient to preclude future misconduct." *Fundamental Portfolio Advisors*, Securities Act Release No. 8251, 2003 WL 23737286 (July 15, 2003) (Commission opinion).

Deutchman provides no valid reason to alter the ALJ's finding that strong sanctions against him serve the public interest. First, he claims he acted in "good faith" and his conduct was not egregious. (RB-24.) But this was not a close call. Deutchman's conduct was "exactly the opposite of how [he] should have proceeded." (ID-109.) He did not make a good-faith error in judgment; he exercised no judgment at all, and instead just "deferred to the firm's opinion." (ID-35, 42; DF-362.) As the ALJ held, all Deutchman had to do was "review[] the stock purchase agreements or Chen's memo in any meaningful way," and he would have discovered that the consolidation was improper. (ID-93.)

Deutchman also describes the scope of his misconduct as "narrow." (RB-26.) But this was not, as Respondents claim, a "single judgment error." (*Id.*) Although most (but not all[9]) of Deutchman's misconduct related to the consolidation of BHCA, his errors in judgment were myriad, permeating multiple aspects of five engagements. (ID-109; DF-215.) Over and over, red flags provided Deutchman with new opportunities to exercise due care. (DF-190, 272, 273, 281, 316-318, 330, 344, 346, 354.) Each time, he failed. (*Id.* at 274, 281, 288, 294, 322-23, 331, 358-60.)

Deutchman's egregious conduct and his recidivism also justifies a cease-and-desist order. *See KPMG Peat Marwick*, 2001 WL 47245, at *24 ("Absent evidence to the contrary, a finding

[9] Deutchman also violated auditing standards by blending the roles of EQR and engagement partner during the 2014 audit, another violation distinct from the BHCA consolidation. (ID-33-34, 42; DF-306-310.)

of violation raises a sufficient risk of future violation" to merit a cease-and-desist order.); (*see also* ID-115).

3. Chung's Conduct Merits a One-Year Bar.

The ALJ correctly found that it was in the public interest to impose a one-year bar under Rule 102(e) against Chung. (ID-120.) Chung, who had no prior EQR, partner, or manager experience, and no prior experience analyzing business combinations under ASC 805 and 820, engaged in egregious, highly unreasonable conduct on the CannaVEST interim review by failing "markedly in her EQR duties." (ID-109.) Chung also has no recognition of the wrongfulness of her conduct and provides no assurance against future violations. (ID-111-112.) At the hearing, she could not recall what work she had done on the CannaVEST engagement, but she knew she had done "everything right, nothing wrong" and that she did her job "according to the U.S. GAAP and GAAS standard." (ID-111-112; DF-908.) Moreover, Chung's current position presents opportunities for future violations. Chung owns NorAsia, and she continues to work with her husband and "enable his work." (ID-113.) As a result of Chung's highly unreasonable conduct, her lack of retrospect, and her continued enabling of her husband's work with public companies, the ALJ appropriately found that a one-year bar was warranted against Chung. (ID-120-121.) In addition, the ALJ found that such a bar would "enable the Commission to perform an important gate-keeping role should Chung seek to appear or practice after the year has elapsed." (*Id.*)

B. Wahl's and Deutchman's Conduct Merits, at Minimum, the Civil Penalties Imposed by the ALJ.

Exchange Act Section 21B(a)(2) authorizes civil penalties in cease-and-desist proceedings against individuals who, like Wahl and Deutchman, have violated or caused a violation of the Exchange Act or a rule or regulation thereunder. Applying his discretion and the

six factors enumerated in Exchange Act Section 21B(c), the ALJ found that the public interest would be served by requiring Wahl and Deutchman to pay second-tier penalties of $160,000 and $40,000 civil penalties, respectively. (ID-116-19.)

Respondents' conduct easily meets the requirements for second-tier penalties. They recklessly disregarded multiple regulatory requirements and violated the antifraud provisions of the securities laws. (ID-116-17; *supra* Sections III(A)-(B), IV.) Their misrepresentations in Anton & Chia's audit opinions harmed market integrity. (ID-116; *supra* Section VI(A).) This is the third time Deutchman has been sanctioned for his audit-related misconduct, so his prior regulatory record weighs in favor of a penalty. (*Id.*116; DF-899-902.) As to Wahl, who lied under oath several times, his perjury supports a strong penalty as well. (ID-117; DF-930-39.)

Finally, these civil penalties will provide important deterrence, both to Respondents themselves, and to other accountants who work with public companies. (*Id.* at 116-17.) "The Commission and the investing public rely heavily on accountants to assure disclosure of accurate and reliable financial information." *Michael Marrie, CPA*, Exchange Act Rel. No. 48246, 2003 WL 21741785, at *8 (July 29, 2003). When auditors like Wahl and Deutchman repeatedly ignore red flags, sign off on shoddy workpapers, and rubber-stamp issuers' financial statements, they provide false assurance to innocent investors and a boon to unscrupulous issuers. Deterring such conduct is critical to the public interest.

VII. CONCLUSION

For the foregoing reasons, the Division respectfully requests that the Commission affirm the ALJ's well-reasoned findings and conclusions.

Dated: May 21, 2021

Respectfully submitted,

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18292

In the Matter of **Anton & Chia, LLP,** **Gregory A. Wahl, CPA,** **Michael Deutchman, CPA,** **Georgia Chung, CPA, and** **Tommy Shek, CPA,** **Respondents.**	**CERTIFICATE OF COMPLIANCE**

I certify the Division of Enforcement's Opposition to Respondents' Opening Brief contains less than 14,000 words. According to Microsoft Word 2016, there are a total of 13,544 words, inclusive of headings, footnotes, and quotations.

Dated: May 21, 2021

/s/ Alyssa A. Qualls
Alyssa A. Qualls
Division of Enforcement

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18292

In the Matter of **Anton & Chia, LLP,** **Gregory A. Wahl, CPA,** **Michael Deutchman, CPA,** **Georgia Chung, CPA, and** **Tommy Shek, CPA,** **Respondents.**	**CERTIFICATE OF SERVICE**

In accordance with Rule 150 of the Commission's Rules of Practice, Alyssa A. Qualls, an attorney, hereby certifies that on May 21, 2021, she caused true and correct copies of the Division of Enforcement's Post-Hearing Brief to be served on the following via email:

Respondent Georgia Chung
[redacted]

Respondent Gregory Wahl
[redacted]

Respondent Michael Deutchman
[redacted]

Dated: May 21, 2021

/s/ Alyssa A. Qualls
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