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,
Georgia Chung, CPA, and
Michael Deutchman

Respondents.

POST-HEARING BRIEF FOR PRO SE RESPONDENTS GREGORY ANTON WAHL GEORGIA C. CHUNG

May 28, 2020

DEFINITION: **HONEST-HARDWORKING-AMERICANS**

Gregory Wahl, Georgia Chung and Michael Deutchman (“*Respondents” “Honest-Hardworking-Americans****”) represent an important class of our really good people.***

DEFINITION: **CORRUPT GOVERNMENT OFFICIALS**

The SEC Plaintiffs are referred to herein as the Corrupt-Government-Officials… They are wrongly engaged in unprovoked-terrorism, malicious-lies and premeditated-fraudulent-attacks on American-Small-Businesses and their employees, as will be thoroughly proven beyond-a-shadow-of-a-doubt by the end of this Post-Hearing Brief. These Corrupt-Government-Officials illegally brought this action and falsely invented its typical-fraudulent-witch-hunt so it could first-deny-due-process and financially destroy the honest and hardworking defending American parties (the Respondents and their Small American Business enterprise - Anton & Chia, LLP).

OPENING STATEMENT

It is unquestionably despicable that the SEC’s Corrupt-Government-Officials knowingly made up the entire-case with endless-unprovoked-attacks on Respondents. Beyond the crime itself of the Enforcement Personnel having conjured up such a vicious charade is the disturbing reality from the Enforcement-Division while being-so-clearly-aware that there never any facts in evidence, not one shred of proof of even a single penny of loss to any investor, zero risk of any future-investor-losses and without having presented even-one-single-connection between any rule-of-law or any specific-accounting-standard relied on by the Corrupt-Government-Officials presented from the day the Order Instituting Proceedings (“OIP”) and the Press Release was released as a “Hit-Job”

using the word Fraud over and over thereby immediately destroying the Honest-Hardworking-Americans and their small business along with 100+ great jobs and many-millions-of-dollars of commerce, denying Honest-Hardworking-Americans Due Process in their case and a right to pursue their Great American Dream guaranteed by the U.S. Constitution.

These Corrupt-Government-Officials have a long and despicable history of pretending to be tough on crime by wrongly beating down, bullying and destroying the small and the previously defenseless on its usual false pretext that "you should just give up."

The Corrupt-Government-Officials didn't however bargain for Honest-Hardworking-Americans to ever fight back. We learn in this Major Paradigm Shift a valuable lesson that not only are The Corrupt-Government-Officials totally fraudulent, but they are completely incompetent as well.

One simple question was intentionally and routinely asked by Defendant Pro se, Wahl throughout the hearing when doing redirect of The Corrupt-Government-Officials. That was – ***"Can you name ANY legal standard that was relied on to connect ANY violation of ANY rule that connects to or supports ANY of the charges in this case?"*** The best answer was "***We will get back to you with the law!"***

Other than that, the facts speak for themselves. Not one legal standard by ANY of The Corrupt-Government-Officials was EVER provided throughout the fake case because there simply weren't ANY.

The Corrupt-Government-Officials failed completely to prove ANY of their bogus case, claims or allegations. They failed entirely in every possible way in demonstrating a shred of evidence that –

1) The Honest-Hardworking-Americans knew of and disregarded, or otherwise recklessly failed to discover, numerous red flags that the underlying fraud was occurring;

2) That Respondents committed or overlooked violations of accounting and auditing standards in a manner that establishes or supports Scienter; or

3) That the size of the underlying fraud was so large that it supports Scienter.

Having thus failed entirely to plead ANY facts that prove that The Honest-Hardworking-Americans knew of ANY fraud, or that no reasonable auditor would have failed to discover ANY fraud, The Corrupt-Government-Officials never demonstrated that Respondents committed ANY Auditor Scienter. On that basis, Wahl and Cheung are entitled to dismissal of the case and to be awarded damages relative to their massive loss of the A&C business, their reputation and lost future profits which had a recognized major bank valuation of nearly 30 million dollars.

The Honest-Hardworking-Americans presented a totally accurate and honest defense disproving in every possible scenario and based on every rule of law, and every available fact, that The Corrupt-Government-Officials knowingly made wrongful allegations that Respondents are liable "for any false or misleading [… statements] by clients." Def. Br. 20; *see* Compl. ¶¶ 197-99.

Further, the Complaint, and the case presented by The Corrupt-Government-Officials have also failed entirely to demonstrate that anyone here "made" any such … statements in violation of §10(b) or Rule 10b-5. Liability under § 10(b) and Rule 10b-5 are limited to the "maker" of the false statement. *Janus Capital Group, Inc. v. First Derivative Traders,* 131 S. Ct. 2296, 2301-02 (2011)[1].

For these purposes, "the maker of a statement is the person or entity with ultimate authority over the statement, including its content and whether and how to communicate it." *Id.* at 2302. As The Honest-Hardworking-Americans point out herein, and The Corrupt-Government-Officials do

[1] See *Athale v Sinotech Energy Ltd.* 11 Civ. 05831 (AJN) S.D.N.Y Feb 21, 2014.

not EVER contest that the Complaint is utterly devoid of any allegations or evidence that Respondents possessed ANY ultimate authority over the financial statements at issue.

Accordingly, Plaintiffs have failed to adequately plead or to ever demonstrate in any scenario based on only the truth that Respondents are liable for ANY of the false or misleading statements claimed to exist in this case, plain and simple - there aren't ANY[2].

[2] See also Athale v Sinotech Energy Ltd. 11 Civ. 05831 (AJN) S.D.N.Y Feb 21, 2014.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

REVIEW ENGAGEMENTS – NO AUDITOR LIABILITY:

Restatements – No Liability*:*

Section 10(b) Liability – Misrepresentation or Omission:

5) *Santa Fe Indus., Inc. v. Green*, 430 U.S. 462, 476-77 (1977)…….P.F.F.#843

6) *Simpson v. AOL Time Warner, 452 F.3d 1040, 1048 (9th Cir. 2006)*……..…..…..P.F.F.#843

7) *Wright v. Ernst & Young LLP*, 152 F.3d 169, 175 (2d Cir. 1998)……..…….P.F.F.#843

8) *Athale v Sinotech Energy Ltd.* 11 Civ. 05831 (AJN) S.D.N.Y Feb 21, 2014……..4,5

SECTION 10(b) LIABILITY – MATERIALITY:

1) *City of Pontiac Policemen's & Firemen's Ret. Sys. v. UBS AG*, 752 F.3d 173, 183 (2d Cir. 2014)……..……71, P.F.F.#844

2) *In re Stone & Webster, Inc., Sec. Litig.*, 253 F. Supp. 2d 102, 135 (D. Mass. 2003)..P.F.F.#844

3) *Litwin v. Blackstone Grp., L.P.*, 634 F.3d 706, 717 (2d Cir. 2011)……...26,.P.F.F.#844

4) *Matrixx Initiatives, Inc. v. Siracusan*o, 131 S.Ct. 1309 (2011)……...P.F.F.#844

SECTION 10(b) LIABILITY – SCIENTER:

1) *DSAM Global Value Fund v. Altris Software, Inc.*, 288 F.3d 385, 390 (9th Cir. 2002) (citations omitted)……P.F.F.#845

2) *ECA & Local 134 IBEW Joint Pension Trust of Chicago v. JP Morgan Chase Co.*, 553 F.3d 187, 200–01 (2d Cir. 2009)……..……P.F.F.#845

3) *Ernst & Ernst v. Hochfelder*, 1976)…….P.F.F.#845

4) *Ezra Charitable Trust v. Tyco International, Ltd.* 466 F.3d 1, 12 n 10 (1st Cir. 2006)……28,20,52,69,P.F.F.#845

5) *Ferris, Baker Watts, Inc. v. Ernst & Young, LLP*, 395 F.3d 851, 855 (8th Cir. 2005)……..…….P.F.F.#845

6) *Fidel v. Farley*, 392 F.3d 220, 226 (6th Cir. 2004)……..……P.F.F.#845

7) *In re National Century Financial Ent., Inc.*, 03-md-1565, 2007 WL 2331929, *6 (S.D. Ohio Aug. 13, 2007)……..……..P.F.F.#845

8) *Novak v. Kasaks*, 216 F.3d 300, 307 (2d Cir. 2000)……..29,.P.F.F.#845

9) *Rahman v. Kid Brands, Inc.*, 736 F.3d 237, 243–44 (3d Cir. 2013)……P.F.F.#845

10) *Raytheon Sec. Litig.*, 157 F. Supp. 2d 131, 154 (D. Mass. 2001)……P.F.F.#845

11) *Rothman v. Gregor*, 220 F.3d 81, 98 (2nd Cir. 2000) (same)…….P.F.F.#845

12) *Royal Ahold N.V. Sec. & ERISA Litig.*, 351 F. Supp. 2d 334, 390 (D. Md. 2004)…..P.F.F.#845

13) *Pl. Opp. 15. Cf. Iowa Pub. Employees' Retirement Sys.*, 919 F. Supp. 2d at 334..29,P.F.F.#845

14) *Scottish RE Group Sec. Litig., 524 F.Supp.2d 370, 385 (S.D.N.Y. 2007)*…….…..P.F.F.#845

15) *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 319 & n.3 (2007)……28,29, 44..P.F.F.#845

SECTION 10(b) LIABILITY – RELIANCE:

1) *Affiliated Ute Citizens v. United States*, 406 U.S. 128 (1972)……...31,.P.F.F.#846

2) *Erica P. John Fund, Inc. v. Halliburton Co.*, 131 S. Ct. 2179, 2185 (2011)…….30,.P.F.F.#846

SECTION 10(b) LIABILITY – LOSS CAUTION:

1) *Dura Pharms., Inc. v. Broudo*, 544 U.S. 336, 341–42 (2005)……..31,32,.P.F.F.#847

2) *In re Omnicom Grp., Inc. Sec. Litig*., 597 F.3d 501, 511 (2d Cir. 2010)……P.F.F.#847

3) *Stoneridge Inv. Partners LLC v. Scientific-Atlanta Inc.*, 128 S. Ct…….P.F.F.#847

RULE 102(e):

1) *Checkosky v. SEC*, 23 F.3d 452 (D.C. Cir. 1994)…….…….P.F.F.#848

2) *In re Faro Technologies Securities Litigation*, 2007 WL 430731, *15-20 (M.D. Fla. Feb 03, 2007)……P.F.F.#848

3) *In re Carter*, Exchange Act Release No. 17595 (Feb. 28, 1981), 22 SEC Docket 292, 198 (Mar. 17, 1981). Cf. Arthur Young, 465 U.S. at 817-818……...P.F.F.#848

4) *PR Diamonds, Inc. v. Chandler*, 364 F.3d 671, 693 (6th Cir. 2004))……..…P.F.F.#848

THE SEC's HEAVY BURDEN OF PROOF:

1) *In the Matter of Michael J. Marrie, CPA and Brian L. Berry, CPA.*……37,.P.F.F.#849

RULE 13-(a) and 13 (a)-1 – AIDING & ABETTING:

1) *Ponce v. SEC,* 345 F.3d 722 (9th Cir. 2003)……..41,P.F.F.#850

2) *SEC v. Pricewaterhouse,* 797 F. Supp. 1217, 1240 (S.D.N.Y. 1992)……...41,.P.F.F.#850

ANTON & CHIA WAS A QUALITY FIRM:

1) *James River Holdings Corporation v. Anton and Chia LLP et al case #8:13-cv-01396*…….……37,.P.F.F.#851

DAUBERT CELEBRITY, HARRIS DEVOR:

1) *Ambrosini v. Labarraque,* 101 F.3d 129 (D.C. Cir. 1996)…….P.F.F.#852

2) *Bourjaily v. United States*, 483 U.S. 171 (1987)……P.F.F.#852

3) *Claar v. Burlington N.R.R.*, 29 F.3d 499 (9th Cir. 1994)……P.F.F.#852

4) *Daubert v. Merrell Dow Pharmaceuticals, Inc*., 509 U.S. 579 (1993)……...P.F.F.#852

5) *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 43 F.3d 1311, 1319 (9th Cir. 1995)……P.F.F.#852

6) *In re Acceptance Ins. Cos., Inc. Securities Litigation*, 352 F. Supp. 2d 940 (D. Neb. 2004)…..…….P.F.F.#852

7) *In re Burlington Coat Factory*, 1997…….P.F.F.#852

8) *Kinder v. Acceptance Ins.* Cos. 2005……...P.F.F.#852

9) *Kumho Tire Co. v. Carmichael,* 119 S.Ct. 1167 (1999)……..P.F.F.#852

10) *Lauzon v. Senco Prod., Inc.,* 270 F.3d 681, 687 (8th Cir. 2001); Jaurequi v. Carter Mfg. Co., Inc., 173 F.3d 1076, 1082 (8th Cr. 1999)……..P.F.F.#852

11) *Lawrence E. Jaffe Pension Plan vs Household International, Inc. Case No. 02-*C5893…..…….P.F.F.#852

12) *L&M Beverage Co. v. Guiness Import Co.* (Jonasson v. Lutheran Child and Family Serv., 1977)……P.F.F.#852

13) *O'Conner v. Commonwealth Edison Co.,* 13 F.3d 1090 (7th Cir. 1994)……P.F.F.#852

14) *Sheehan v. Daily Racing Form, Inc.*, 104 F.3d 940, 942 (7th Cir. 1997)……...P.F.F.#852

15) *Tassin v. Sears Roebuck*, 946 F.Supp. 1241, 1248 (M.D. La. 1996)…….….P.F.F.#852

16) *Turner v. Iowa Fire Equip., Co.* 229 R.3d 1202, 1208 (8th Cir. 2000)……P.F.F.#852

17) *United States v. Jones*, 107 F.3d 1147 (6th Cir. 1997)……P.F.F.#852

18) *SEC v. Guenthner*…….P.F.F.#852

19) *SEC v. Lee Cole, Linden Boyne, Kevin B. Donovan, and Timothy Quintanilla*; **Case number:** 12-cv-08167 (United States District Court for the Southern District Court of New York)…….…..44,P.F.F.#852

GOING CONCERN – AUDITOR'S MOST CONSPICUOUS RED FLAG:

1) *In re North American Acceptance Corp. Securities Cases,* 513 F.Supp. 608, 636 n. 15 (N.D.Ga. 1981)……P.F.F.#853

AUDITOR FEES:

1) *Ezra Charitable Trust v. Tyco International, Ltd.,* 466 F.3d 1, 12 n.10 (1st Cir. 2006)……...29,31P.F.F.#854

2) *Fidel*, 392 F.3d at 232……30,.P.F.F.#854

3) *In re Philip Services Corp. Sec. Litig.*, 383 F. Supp. 2d 463, 470 (S.D.N.Y. 2004)……P.F.F.#854

Lewis v. Straka, No. 05-1008, 2007 WL 2332421, *4 (E.D.Wis. Aug. 13, 2007)…...31,P.F.F.#854

AUDITOR REPORTS:

1) *AOL Time Warner, Inc. Sec. Litig.*, 503 F. Supp. 2d 666 (S.D.N.Y. 2007)……P.F.F.#855

2) *Billy v. Arthur Young & Co.*, 834 P.2d 745, 750 (Cal. 1992)……49,.P.F.F.#855

3) *Bond Opportunity Fund v. Unilab Corp.*, No 99-11074, 2003 WL 21058251, *5 (S.D.N.Y. May 9, 2003)……P.F.F.#855

4) *Harmonic, Inc, Securities Litigation*, 00-2287, 2006 WL 3591148, *16 (N.D.Cal. Dec. 11, 2006)……..……..P.F.F.#855

5) *Herman & MacLean v. Huddleston*, 459 U.S. 375, 386 n.22 (1983)……..……P.F.F.#855

6) *U.S. v. Arthur Young & Co.*, 465 U.S. 805, 810-11 (1984)…….……..49,.P.F.F.#855

7) *Virginia Bankshares, Inc. v. Sandberg*, 501 U.S. 1083, 1095-96 (1991)……..……..P.F.F.#855

IMPACT OF APPLYING US GAAP:

1) *Barron v. Smith*, 2004……..……..P.F.F.#856

2) *Decker v. GlenFed, Inc.*, 1994……..…P.F.F.#856

3) *DSAM Global Value Fund v. Altris Software, Inc.*, 288 F.3d 385, 390 (9th Cir. 2002)..……..P.F.F.#856

4) *Ezra Charitable Trust*, 466 F.3d at 12…….P.F.F.#856

5) *Fidel*, 392 F.3d at 230……30,P.F.F.#856

6) *Godchaux v. Conveying Techniques, Inc.*, 1988…….....P.F.F.#856

7) *Grand Lodge of Pa. v. Peters*, 07-479, 2008 WL 697340, *6 (M.D.Fla. March 13, 2008)……..…..P.F.F.#856

8) *Greebel v. FTP Software, Inc.*, 194 F.3d 185, 203-04 (1st Cir. 1999)……P.F.F.#856

9) *Gross v. Summa Four, Inc.*, 93 F.3d 987, 996 (1st Cir. 1996)……P.F.F.#856

10) *In re Adaptive Broadband Sec. Litig.*, 2002 WL 989478 (N.D. Cal. April 2, 2002…P.F.F.#856

11) *In re IKON Office Solutions, Inc.*, 2002…… 48,.P.F.F.#856

12) *In re Hypercom Corp. Sec. Litig.*, 2006 WL 726791, *4-5 (D. Ariz. Jan. 25, 2006)..P.F.F.#856

13) *In re Software Toolworks Inc. Sec. Litig.*, 50 F.3d 615, 627-28 (9th Cir. 1994)…….P.F.F.#856

14) *In re Sportsline.com Sec. Litig.*, 366 F. Supp. 2d 1159 (S.D. Fla. 2004)……P.F.F.#856

15) *Malone v. Microdyne Corp.*, 1994……...P.F.F.#856

16) *Reiger v. PricewaterhouseCoopers LLP*, 117 F. Supp. 2d 1003, 1009 (S.D. Cal. 2000)……P.F.F.#856

17) *SBC Computer Tech., Inc. Sec. Litig.*, 149 F. Supp. 2d 334, 357 (W.D. Tenn. 2001)……P.F.F.#856

18) *Shalala v. Guernsey Mem'l Hosp.*,1995……P.F.F#8556

19) *Thor Power Tool Co. v. C.I.R.*, 439 U.S. 522, 544 (1979)…… 35,P.F.F.#856

20) *Zucker v. Sasaki*, 963 F. Supp. 301, 307 (S.D.N.Y. 1997)……..P.F.F.#856

US GAAS REQUIRES PROFESSIONAL JUDGMENT:

1) *Ezra Charitable Trust*, 466 F.3d at 13……28,20,52,69.P.F.F.#857

2) *In re Cardinal Health Inc. Sec. Litig.*, 426 F. Supp. 2d 688, 778 (S.D. Ohio 2006).…P.F.F.#857

3) *In re Stone & Webster Sec. Litig.*, 414 F.3d 187, 214 (1st Cir. 2005)……...P.F.F.#857

4) *Global Crossing, Ltd. Securities Litigation*, 313 F. Supp. 2d 189, 210 (S.D.N.Y. 2003)……..……P.F.F.#857

5) *Nappier v. PricewaterhouseCoopers LLP*, 227 F. Supp. 2d 263, 278 (D.N.J. 2002)……...27,48,26,P.F.F.#857

CONSTITUTIONAL CASES 5th AND 14th AMENDMENT:

SUPREME COURT CASES – OTHER MATTERS:

ADDITIONAL SEC CASES ARE NOT RELEVANT:

Statutes, Rules and Administrative Materials

Other Authorities

I INTRODUCTION AND OVERVIEW

The audits and reviews of CannaVEST, Premier, and Accelera Innovations, Inc. ("**Registrants**") – which Anton and Chia LLP ("**A&C**"), Gregory A. Wahl ("Wahl"), Georgia C. Chung ("Chung") and their personnel planned and executed complied with all applicable professional standards. This Respondents Post-Hearing Brief; Proposed Findings of Fact and Conclusion of Law ("**P.F.F.**") exposes the fake charges the Division cant substantiate under United States Securities and Exchange Commission ("**SEC**") Rules of Practice 102(e), Section 10(b) and Rule 10b-5 thereunder.

The legal cases that the SEC cited in their post-hearing briefs are not relevant (**see Appendix B P.F.F#380**).

Faced with fatal flaws in its allegations, the Division seeks to ignore US GAAP and GAAS, rewrite accounting principles, rely on a biased and conflicted CPA and disregard irrefutable evidence. The Division relied solely on their CPA, Harris Devor ("**Devor**") who admitted that he has **never** audited a public company under PCAOB standards[3]. Wahl informed the court and the Division that Devor, had no credibility as an expert not just in Federal court but any court. The SEC completed no due diligence on Devor who concealed fact that he was admonished by a judge in other regulatory matter for being completely biased and he had his opinion/reports denied. (**see P.F.F#93to147and P.F.F#852**).

[3] **Q. Judge Patil: So what I'm trying to establish here is first off, you haven't been an auditor for an engagement partner on a public audit after 1990?**

A. Right. And I thought I had already answered that a couple of times, but the answer is that's correct. I agree.

The SEC disregarded irrefutable evidence and failed to present credible facts, credible witnesses, or any evidence any investor was harmed. Not only did "aiding-and-abetting" never occur, but Respondents forced their Registrant clients to increase-losses, reduce-assets and increase-deficits in their financial statements. By doing so, the investors received the best protection available.

In the CannaVEST matter, A&C proposed-and-forced management to record *over $28MM in review adjustments* that increased the loss from $200,000 to a sizeable *loss of $28,407,209*. A&C's recommendations also-reduced the CannaVEST equity statement from *positive to negative* **(see P.F.F#306)**.

In the Premier 2013 audit, there were *8 audit-adjustments* proposed and booked by management (**see P.F.F#460&485**). A&C even had them record the Note transaction in discontinued operations, a very conservative, non-routine transaction. The settlement-of-the-Note transaction with 7,500,000 shares returned to treasury shares ended up *benefiting of all Premier shareholders* ***(*see P.F.F#508*)***.

The Accelera 2013 and 2015 audits, proposed *16 audit adjustments* proposed and booked which increased the $7.2MM loss in 2013 and the $14.5MM loss in 2015 **(see P.F.F#764&766).** In Accelera's 2014 audit, Wahl & Deutchman demonstrated-the-validity-to-management to record $18MM in adjustments, increasing the $18MM loss to $36MM (**see P.F.F#765**).

A *Going Concern Disclaimer* was disclosed in A&C's audit reports, as-well-as- disclaimers regarding related parties in Accelera and Premier ***(*see P.F.F#486&799*)***, which are conspicuous-red-flags-for investors ***(*see P.F.F#853*)***. Accelera's management even further disclosed in their

financial statements that with A&C's going concern disclaimer they would have a difficult time raising capital from investors[4].

The SEC and Devor incorrectly focused on the working papers which has been rejected by nearly all courts where no liability can extend-to-an auditor completing procedures that it determines, based on its professional judgment, comply with PCAOB standards to ensure that management complies with US GAAP *(***see P.F.F#857***)*.

A&C never-issued-a-report for any of its-quarterly-reviews and legally no liability-derived-for-interim-reviews *(***see P.F.F#841***)*.

II. THE DIVISION CANNOT PROVE SECTION 10(b) OR 10b-5 LIABILITY

A. The Division Could Never Establish Section 10(b) Liability as Referenced in Its Press Release Because It Never Existed (**see P.F.F#1to#17**).

1. Division Failed to Establish Material Misstatement or Omission (see P.F.F#843)

Section 10(b) requires a defendant to have made a material-misstatement-or-omission. An omission may only give rise to liability if it was necessary to render another statement not misleading, or if the defendant had a duty-to-disclose. A&C and Respondents had no duty at all to disclose. In fact, the Registrants had the duty to disclose. The Registrants' disclosures did not contain any material misstatements or omissions or a commission of a manipulative act, because all material contracts and information were fully disclosed in each of the financial statements.

In CannaVEST, there is no report to point to A&C's representations in this matter. The financial statements are the responsibility of the Company's management, not the representations of A&C *(***see P.F.F#555***)*. The 2014 SEC comment letters are management's representations. No third-party liability applies to A&C. There should be no third party liability applied to A&C, even

[4] See P.F.F#794

if management determined fourteen months after the fact that they would finally adjust the provisional amounts, which is in full compliance with ASC 805 (**ASC 805-10-30-1 to 805-10-30-3**) *(***see P.F.F#251***)*.

In Premier, there was no misstatement or omission. The accounting for the Note *(***see P.F.F#405&P.F.F#410to#417***)* and The Power Company purchase price was recorded in the most conservative manner under U.S. GAAP *(***see P.F.F436#to#447***)*.

Accelera, there was clearly no misstatement or omission. The $4.5MM debt obligation to Dr. Blaise Wolfrum ("Wolfrum") (audit evidence is the signed debt confirmation by Wolfrum) *(***see P.F.F#758to#760***)* created an economic interest so that BHCA was required to be consolidated. The termination agreement *(***see P.F.F#750to#752***)* specified the period that Accelera had the exclusive right to control BHCA. Wolfrum didn't have control of the shares (**see P.F.F.#611**) and he testified BHCA was locked up from November 11, 2013 to January 1, 2016 **(see P.F.F.#612**).

In *Janus Capital Group, Inc. v. First Derivative Traders*, 131 S. Ct. 2296, 2300–02 (2011), the Supreme Court of the Unites States ("**SCOTUS**") addressed what it means to "make" an untrue statement under Section 10(b). It found that a mutual fund investment advisor could not be held liable for false statements in its clients' prospectuses, as it did not "make" the statements at issue. Rejecting the argument that liability could extend to the person who provided the false information, the SCOTUS held that "the maker of a statement is the person or entity with ultimate authority over the statement, including its content and whether and how to communicate it." Respondents **did not have ultimate authority over** representations made in management's financial statements. *An audit opinion is not part of a set of financial statements*. An audit opinion is simply attached and should not be construed as a representation of the information in those financial statements. A&C did not review and approve those financial statements because that is the responsibility of

management. A&C never provided the financial statements to anyone nor did they file the 10-Qs and 10-Ks with the SEC.

The Division's malicious attempt at rulemaking by enforcement should be rejected. Conclusory allegations that a circumstance amounted to a "red flag" or that the auditor must have known of the red flag establish nothing under the particularity pleading requirements. *Nappier v. PricewaterhouseCoopers LLP*, 227 F. Supp. 2d 263, 278 (D.N.J. 2002) (red flags "must be closer to smoking guns than mere warning signs.") (citation and internal quotation marks omitted) *(***see P.F.F#857***).*

US GAAS states that "if there is situation for fraud auditors do not make legal determinations of whether fraud has occurred that are subject of an audit[5]."

2. Division Failed to Establish Materiality (see P.F.F#844)

Only a material misstatement or omission can give rise to liability under Section 10(b) and Rule 10b-5. (17 C.F.R. § 240.10b-5**)**. A fact is material if "*there is a substantial likelihood that a reasonable shareholder would consider it important*" in making his investment decision. In determining materiality, the misstatement or omission is not viewed in a vacuum. Rather, the question is whether disclosure would have "*significantly altered the 'total mix*'" of available information. The SEC does not define materiality and can't determine if a difference in accounting treatment is material or not (**see P.F.F #856**)[6].

[5] **AU 316 paragraph .05**

[6] Materiality is generally a mixed question of law and fact, and is decided as a matter of law only when "*reasonable minds could not differ on*" the statement's importance. *Litwin v. Blackstone Grp., L.P.*, 634 F.3d 706, 717 (2d Cir. 2011) (internal quotation marks omitted).

The Phytosphere transaction is material to the financial statements, *however looking at the transaction as an investor would on a net basis,* assets less the related earn out liability (**see P.F.F.#307**) *the amounts are clearly immaterial*. The subsequent revisions to the purchase price allocation were immaterial to investors. CannaVEST never revised the original contract or ordered Phytosphere to pay back the $35,000,000 that Phytosphere received from CannaVEST *(***see P.F.F#271***)*. CannaVEST management and its board of directors would have Pythosphere return a portion of the $35,000,000 purchase price by proxy vote if there was harm to investors. There were no lawsuits from CannaVEST investors in connection with the $35,000,000 purchase price. The transaction is clearly immaterial and Section 10(b) liability does not exist.

In Premier, the customer list was immaterial and provided no value to investors *(***see P.F.F#440***)*. Premier's Note transaction was non-routine clearly disclosed as part of discontinuing the wind business and increased shareholder value by returning 7,500,000 common shares to treasury (**see P.F.F#508**). The Premier matter does not warrant Section 10(b) liability because the transactions are immaterial and they benefited investors.

In Accelera, the BHCA acquisition on its own was clearly immaterial relative to the 2013 $7.2MM loss the 2014 $36MM loss and the 2015 $14.5MM loss *(***see P.F.F#613***)*. In 2014, there was $18MM *(***see P.F.F#765***)* in adjustments proposed by A&C applicable to revenue recognition, goodwill impairment and share-based compensation. Any one of these adjustments significantly outweighs the importance of the BHCA transaction.

Synergistic Holdings, LLC was a related-party with the same officer group as Accelera. Synergistic raised all of the capital for Accelera. Synergistic' s relationship was fully disclosed in the notes to Accelera's financial statements to warn investors of this material relationship *(***see**

P.F.F#789*)*. A&C's audit opinion even referenced the Synergistic Holdings related-party transactions in its going-concern disclaimer *(***see P.F.F#787***)*.

Respondents did not audit or review Synergistic Holdings, LLC, nor did they have a duty to do so.

The BHCA transaction was clearly not the most significant or important issue in the financial statements and the audit files, which Devor and the SEC intentionally ignore. Devor ignored them because revenue recognition, goodwill impairment, related-party transactions and share based-compensation are simply too difficult for Devor to understand. Devor's argument to not consolidate does not comply with US GAAP *(***see P.F.F#658to#666***)*.

3. Division Failed to Establish In Connection with a Purchase or Sale

While each of the Registrants raised money from investors, the financial statements represented by management had no direct connection with a purchase or sale of securities other than the fact that each Registrant was a public company. *Therefore, this standard is not applicable.*

4. Division Failed to Establish Scienter (see P.F.F.#845)

A plaintiff pursuing a Section 10(b) claim must demonstrate that the defendant acted with scienter, or the intent to deceive, manipulate or defraud. Although negligent conduct is insufficient to create liability, reckless conduct may satisfy this requirement, and the necessary degree of recklessness varies by Circuit. *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 319 & n.3 (2007).

The SEC has failed to establish any intent such as intent to commit fraud deceive, manipulate or defraud investors. The Division, presented a laundry list of alleged violations which lacked any specific ties to their fabricated story. *Ezra Charitable Trust*, 466 F.3d at 13 (1st Cir.

2006) “the conclusory presented ‘laundry list’ of alleged GAAS violations, which lack any specific ties to the alleged fraud at issue, do not get plaintiffs far in creating a strong inference of scienter.”

The formulation of the scienter standard adopted by the U.S. Court of Appeals for the Second Circuit is illustrative. Under that standard, a plaintiff may sufficiently plead scienter by alleging facts showing either that the defendant had both motive and opportunity to commit fraud, or strong circumstantial evidence of conscious misbehavior or recklessness. *Novak v. Kasaks,* 216 F.3d 300, 307 (2d Cir. 2000). Only an “extreme departure from the standards of ordinary care . . . to the extent that the danger was either known to the defendant or so obvious that the defendant must have been aware of it” may constitute recklessness severe enough to give rise to liability.

Additionally, even if there is fraud, Pl. Opp. 15. *Cf. Iowa Pub. Employees' Retirement Sys.*, 919 F. Supp. 2d at 334 (finding that SEC discovery of fraud did not "suffice to support an inference of scienter on the part" of the auditor), scienter must still be separately proved. However, there is no fraud in this case, not even by the Registrants. The SEC acted dishonestly, cherry-picked its facts, relentlessly mischaracterized the truth and lied in an attempt to win this case. The SEC failed to present a “compelling” argument for scienter and relied on a fraudulent opinion from Devor.

The SEC’s misguided and misperception of scienter are not reality, nor the reality of the SCOTUS. To the SEC’s dismay, Wahl didn’t roll over and die. Wahl showed up to trial, wasn’t nice, and stood behind the work A&C completed. Wahl diligently built A&C, trained and developed staff so they could be competent professionals themselves and built a successful firm *(***see P.F.F#54to#92***)*. Wahl’s actions are not elements of scienter.

Fee allegations do not themselves give rise to a strong inference of scienter. See *In re Philip Services Corp. Sec. Litig.*, 383 F. Supp. 2d 463, 470 (S.D.N.Y. 2004) (“a generalized economic interest in professional fees is insufficient to establish an accounting firm’s motive to commit

fraud." Lewis v. Straka, No. 05-1008, 2007 WL 2332421, *4 (E.D.Wis. Aug. 13, 2007) (rejecting the SEC's argument that fees are evidence of scienter reasoning that "auditor's short term gain in auditing fees derived from improperly certifying financial statements would be outweighed by its **long-term interest in maintaining a solid reputation as an honest accounting firm**."). Wahl spent a substantial amount of A&C's fees on training, infrastructure and staff development *(***see P.F.F#80to#79***)*. Wahl built A&C because there was a need in the small cap market for a quality and competent firm[7] *(***see P.F.F#54to#79***)*.

5. Division Failed to Establish Reliance or Economic Loss (see P.F.F.#846)

Reliance, called transaction causation, provides the requisite causal connection between an alleged misstatement or omission and the plaintiff's injury. The SEC *never* relied on any of management's representations. No investor claimed that there was an injury or misstatement or omission as there have been no lawsuits filed against the Respondents or the Registrants.

A&C was not aware of Registrant's and engaged in the relevant transaction based on that specific misrepresentation. *Erica P. John Fund, Inc. v. Halliburton Co.*, 131 S. Ct. 2179, 2185 (2011). A&C was never provided communication on the Accelera or Cannavest restatements and therefore never were aware of any misstatements, if there was any *(***see P.F.F#***)*.

Under the Reliance (In *Affiliated Ute Citizens v. United States*, 406 U.S. 128 (1972)) presumption, it is management's duty to disclose and therefore secondary liability is not warranted against Respondents' because they did not have the prescribed duty to disclose. Management is

[7] An auditor's motivation to continue a profitable business relationship is not sufficient by itself to support a strong inference of scienter."); Ezra Charitable Trust, 466 F.3d at 13 (same); Fidel, 392 F.3d at 232 (allegations that the auditor earned and wished to continue earning fees from a client do not raise an inference that the auditor acted with the requisite scienter.)

responsible for the financial statements, and they will not agree to every single required disclosure mentioned by the auditor. Respondents should not be held responsible for the financial statements when they **don't have direct authority** over the fair-presentation of the financial statements.

The SEC doesn't even attempt to discuss any impact on the market price of the stock-based on the allegations in the OIP[8]. The SEC never suffered any economic loss other than contemptuously spending $32MM to $38MM of taxpayers' money to ruin Respondents (**see P.F.F#839**). The Registrants' investors never incurred an economic loss, there are no lawsuits against the Respondents. CannaVEST's trading activity (**see P.F.F#269***),* Premier selling the Power Company for $19,500,000 (**Exhibit 1125***)* and Accelera's significant trading volume (**see P.F.F#***)* indicate that each and every investor could have traded out of their shares profitably.

6. Division Failed to Establish Loss Causation (see P.F.F.#847)

Under Section 10(b), a plaintiff must demonstrate loss causation, or a link between a misstatement or omission and the damages sought. The misrepresented or concealed information must have negatively affected the stock price. See *Dura Pharms.*, 544 U.S. at 346.

A plaintiff often makes this showing by pointing to a subsequent disclosure that seeks to correct the alleged misstatement or omission and triggers a negative response from the market, commonly known as a corrective disclosure. *See, e.g., In re Omnicom Grp., Inc. Sec. Litig*., 597 F.3d 501, 511 (2d Cir. 2010).

[8] In *Halliburton Co. v. Erica P. John Fund, Inc.*, the SCOTUS clarified that defendants must be given the opportunity before class certification to defeat this presumption through evidence that an alleged misrepresentation did not actually affect the market price of the stock. If not, the prerequisites for establishing the presumption cannot be established. 134 S. Ct. at 2414.

The SEC makes no statements regarding loss causation, an implication of loss causation or even if there could be losses by investors. This is critical criteria to prove Section 10(b) liability and again the SEC brings no evidence of losses by investors in this case.

The SEC has not met the standard for Section 10(b) liability because they cannot apply the law. The SEC is required to specifically identify each allegedly fraudulent statement; explain why each statement purportedly is fraudulent; state with particularity facts giving rise to a "strong inference" that the Respondents acted with scienter; and plead and prove that the alleged misconduct caused the purported loss. 15 U.S.C. §§ 78u-4(b)(1)-(2), (4). There are no misstatements, omissions, misrepresentations or concealed information by Registrants and the Respondents. All matters are identified and disclosed, therefore, there is no "causal connection" because there are **no** material misrepresentations. *Dura Pharms., Inc. v. Broudo*, 544 U.S. 336, 341–42 (2005).

The SCOTUS has provided the appropriate measure that if there is no direct connection between the auditor and the representation, then liability under Section 10(b) is not appropriate. Respondents suffered irreparable harm when the SEC fraudulently alleged Section 10(b) liability[9].

III. THE DIVISION CANNOT SATISFY RULE 102(e)

A. Rule 102(e) Confuses the SEC (**see P.F.F#848to#849**)

[9] Multiple NASDAQ clients, their sophisticated audit committees and legal counsel were confused by the SEC's allegations in the press release (**see P.F.F#1 to 17***).* No investor losses, then how can there be a Section 10(b) liability claim by the SEC? The SEC's Weissman strategy was a pre-meditated targeted hit against Respondents to damage, destroy and take their property without compensation or due process so the SEC could have an easy win against the Respondents. Then have the Respondents testify against the Registrants.

Although Rule 102(e) is now in its seventh decade of existence, the criteria used by the SEC in determining what constitutes "improper professional conduct" remains far from well-defined. In his speech on September 22, 2016, Andrew Ceresney, Director, Division of Enforcement, states "*At the SEC, we hold accountants and auditors in high regard and consider them to be key partners in our investor protection efforts*[10]."

Andrew Ceresney states "At the same time, however, we must also hold those who become auditors to the high standards of the profession." The SEC has no problem holding others to a fake, poorly defined, unattainable standard. Where are the legal standards that the SEC has to abide by? There clearly are none because the SEC can act maliciously, lie, mischaracterize facts and bring a case that they don't understand.

Andrew Ceresney's states "those somewhat **rare** situations where auditors are engaged in fraud or secondary violations where they aided and abetted or caused primary violations by others." The SEC has the gumption bring an enforcement action alleging "FRAUD" against the Honest-Hardworking-Americans without any evidence. The SEC's case relied on two draft unissued valuation reports(**Exhibits 495.1&857***)*, one valuation report that was for a minority interest not relevant in valuing Phtyosphere(**see P.F.F#857***)*, consolidation of BHCA a complicated transaction

[10] The SEC did not live up to the words of Andrew Ceresney, the Respondents were not held in "high regard" or treated like "key partners" by the Division or previously as operators of A&C, a successful American small business that was bullied then destroyed by the SEC. The SEC staff used intimidation and extortion tactics (**see P.F.F# 18 to 23**).

with various options to consolidate(**see P.F.F#666***)*[11]. The SEC's allegations to deconsolidation Accelera doesn't comply with US. GAAP (**see P.F.F#139***)*.

Andrew Ceresney also identifies cases of "audit failures" where there are or were material investor losses and provide a direct link of losses with the secondary liability associated with an audit report in those circumstances. The SEC's pre-trial brief states on page 26 **"***the SEC argues that although there is no evidence of investor harm as a result of our actions investor harm is not an element of any of the SEC's claims."* The SEC has ignored the elements of investor harm, investor misrepresentation, fraud, scienter, or gross negligence are missing in this case. The SEC failed to establish liability under Rule 102(e) and Section 10(b).

Rule 102(e) proceedings are not designed to punish a person but to protect the integrity of the SEC's proceedings. Rule 102(e) sanctions should serve solely a remedial purpose. The lack of clearly defined standards for what constitutes improper professional conduct has, in many cases, led to the inappropriate application of Rule 102(e) to punish prior alleged failures by accountants to comply with professional standards. The Respondents complied with US GAAS. The responsibility of management is to comply with US GAAP.

The Honest-Hardworking-Americans were attempting to build their business, but instead sustained unconscionable damages, including but not limited to irreparable reputational damage because of the premeditated December 4, 2017 press release and the OIP that intentionally was not

[11] **Thor Power Tool Co. v. C.I.R., 439 U.S. 522, 544 (1979)** The Supreme Court has recognized that GAAP "***are far from . . . a canonical set of rules that will ensure identical accounting treatment of identical transactions. [GAAP], rather, tolerate a range of 'reasonable' treatments, leaving the choice among alternatives to management.***"

supported by any evidence of proof of a wrong doing. (**see P.F.F#s 1 to 17***)*. The SEC destroyed A&C within seven months, wrongfully took property without compensation, and denied Respondents due process rights when the press release indicated they were guilty without a trial. Then continued in their efforts to deny due process against Wahl and Chung (see **P.F.F.#807to#840**).

In *Checkosky v. SEC*, 23 F.3d 452 (D.C. Cir. 1994), a panel of judges of the U.S Court of Appeals for the D.C. Circuit were highly critical of the SEC such that Rule 102(e) could not be enforced due to the SEC's persistent failure in explaining its interpretation of the rule. The SEC have failed to provide any evidence of improper conduct and provided no linkage as to how it applies to the facts of this case. The SEC's team has not audited a public company in accordance with PCAOB standards. **ever**! The SEC used a nurse (Cindy Boreum ("Boreum") **see P.F.F#594**), a suspended psychiatrist[12] (Wolfrum[13] **see P.F.F#607**); an accountant that paid $14,000 to become the CFO (Dan Freeman ("Freeman") **see P.F.F#593**) and used draft unsigned reports as evidence. This is like saying a rubber knife killed someone.

As for conduct that could give rise to a Rule 102(e) sanction, the SEC conceded that its processes "are not necessarily threatened by innocent or even certain careless mistakes."

Nonetheless, the SEC warned that Rule 102(e) "does not mandate a particular mental state….negligent actions by a professional may, under certain circumstances, constitute improper professional conduct." But the standard set by *McCurdy v the SEC* is that only GROSS negligence would warrant discipline under Rule 102(e). The key word is "discipline," **not destruction**. The

[12] https://www.psychsearch.net/blaise-wolfrum/

[13] Wolfrum was day trading in the stock of Accelera while he was a director and an officer for over two years (**see P.F.F#620**). Insider Trading? Martha Stewart served jail time for insider trading.

destruction of Respondents was malicious, egregious and went far beyond the intent of an alleged Rule 102(e) violation.

In Commissioner Johnson's view, the SEC should impose Rule 102(e) sanctions "*only when it is demonstrated that (the professional) acted with scienter*." *The SEC's attorneys failed to establish scienter as it relates to the transactions alleged because they don't understand the law or the accounting underlying the transactions. There is no linkage between any improper professional conduct and a wrongdoing*[14].

According to Commissioner Johnson: "A professional often must make difficult decisions, navigating through complex statutory and regulatory requirements, and in the case of accountants, complying with (GAAS) and applying (GAAP). These determinations *require the application of independent professional judgment and sometimes involve matters of first impression*." *In re Carter*, Exchange Act Release No. 17595 (Feb. 28, 1981), the court said to exercise his or her "Best judgment …..(the professional) must have the freedom to make innocent – or even, in certain cases, careless – mistakes without fear of (losing) the ability to practice." *Without the fear of losing Wahl and Chung's $28M net worth because they didn't like the work papers.……..…..*

Respondents agree with Commissioner Johnson's assessment, however, auditors have to deal with significant other complicated variables that are never discussed in case law or SCOTUS determinations. In the public-company-environment there is constant adversarial pressure to

[14] *Qualls infamous statement "let's hope they don't fight back" marinates as Respondents' have fought back.*

complete- transactions, timely-reporting fail the clients, if the auditor fails with no fault to them, the registrants and shareholders could retaliate with lawsuits[15].

1. The Division's Allegations Amount to Nothing More than Second-Guessing A&C's Professional Judgement.

The Division intentionally does not consider that Professional Judgment Underlies GAAS Requirements. The professional standard AU Section 326 allows the auditor to use professional judgment to determine "*whether the evidential matter available to him within the limits of time and cost is sufficient to justify expression of an opinion.*" The reach of Rule 102(e) is carefully circumscribed to forbid the "subjective second-guessing of auditing judgment calls." *Marrie v. SEC*, 374 F. 3d 1196, 1206 (D.C. Cir. 2004).

The auditor can utilize their judgment and experience to determine *what constitutes sufficient and appropriate "evidential matter"* under **AS1215(AU339) – Audit Documentation**.[16]

GAAS and GAAP refer to the role that professional judgment plays in an auditor's performance, Rule 102(e)'s standard of improper professional conduct likewise should consider professional judgment and the time constraints to complete the engagements. The SEC, for obvious reasons, disregards Respondents' professional judgment and time constraints in its analysis as the attorneys, Devor have never audited or reviewed a public company in accordance with PCAOB

[15] (*James River Holdings Corporation v. Anton and Chia LLP et al* case #8:13-cv-01396) *James River Holdings* illustrates the clear adversarial relationship between the public company client and the auditor(s). James River Holdings sued A&C after repeated requests by A&C to obtain required information to complete the audit. The insurance company hired an accounting expert to defend A&C. The expert was confident in the working paper quality which provided the accounting expert the resources to successfully defend A&C. A&C refused to provide an audit opinion because of the scope limitation and A&C ultimately prevailed.

[16] https://pcaobus.org/Standards/Auditing/Pages/AS1215.aspx

standards and have no experience applying GAAP and GAAS. The Division intentionally disregards professional judgment in their analysis and therefore they have not properly analyzed the Honest-Hardworking-Americans work in accordance with Rule 102(e).

2. A&C Satisfied Professional Standards

For Premier and Accelera, the Respondents acted in accordance with professional standards and applied heightened professional judgment to ensure that the audits complied with US GAAP and GAAS. The Respondents in every accounting engagement ensured that the financial statements were reported correctly and the disclosures supported fair presentation. The work papers satisfied professional standards given the requirement for timely and accurate financial reporting.

3. The SEC Cannot Meet the Formidable Burden of Proof When Seeking to Establish Reckless Conduct Under Rule 102(e) Because There Never Was Evidence of Scienter.

The formidable burden of proof the SEC Staff faces when seeking to establish reckless conduct in a Rule 102(e) proceeding against accountants is illustrated in *Marrie*. In *Marrie*, the client "recklessly" and "with scienter" restated its financial results that lead to materially changing previously issued financial statements from $5.0MM in net income to a net loss of $15.2MM.

The type of recklessness that is actionable against an outside auditor must approximate an actual intent to aid in the fraud being perpetrated by the audited company[17]. Scienter requires more than evidence or an allegation that an outside auditor misapplied auditing principles. The Division must prove that the accounting practices were so deficient that the audit accounted to no audit at all, or an egregious refusal to see the obvious, or to investigate the doubtful, or that the accounting

[17] See Decker v. Massey-Ferguson, Ltd., 681 F.2d 111, 120-21 (2d. Cir. 1982)

judgments made were such that no reasonable accountant would have made the same decisions if confronted with the same facts[18].

If a Respondent shows that his accounting decisions were reasonable, he negates the Division's attempt to establish scienter. See *In re Worlds of Wonder Sec. Litig.*, 35 F.3d 1407, 1426 (9th Cir. 1994).

There is no fraud committed by the Registrants. Alleged violations of GAAP or GAAS standards do not, standing alone, serve as circumstantial evidence of scienter, nor does the fact that a reasonable accountant, in hindsight, "would, might or should" have dealt with matters differently establish scienter. Sanctions must reflect only clearly established violations. Devor's testimony and report materially violate US GAAP and GAAS (**see P.F.F#93to#147***)*. The SEC doesn't like the working papers[19] or Devor thinks he can do it better does not establish scienter or Rule 102(e) liability[20].

1V. THE DIVISION MISREPRESENTS RULE 2-02(b) OF REGULATION S-X

The Division further misrepresents Rule 2-02(b) of Regulation S-X, or 17 CFR §210.2-02(b), regarding the representations to the accountant's report: "Shall state the applicable professional standards under which the audit was conducted." The rule does not say "that the

[18] See *SEC v. Price Waterhouse*, 797 F. Supp. 1217, 1240 (S.D.N.Y. 1992).

[19] The SEC's pre-trial brief on page 26. "*the SEC argues that although there is no evidence of investor harm as a result of our actions, investor harm is not an element of any of the SEC's claims*." The SEC decides to remove Rule 102(e) and Section 10(b) liability and push it aside to simply punish Respondents with slander, libel and to further damage Respondents' reputations.

[20] **See P.F.F.#857**

accountant shall comply with US GAAP and GAAS." The Respondents fully complied with US GAAP and GAAS and the SEC failed to present a credible witness to contradict this.

Rule 2-02(b) of Regulation S-X further states: (2) Shall designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case, which have been omitted, and the reasons for their omission. Nothing in this rule shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (c) of this section."

A. Rule 2-02(b) of Regulation S-X Does Not Apply to this Case.

Rule 2-02 (b) of Regulation S-X *is not applicable to this case and at best its application is extremely subjective in its merits of whether Respondents complied or not.* The Division have no evidence the Respondents "omitted" audit procedures in the audits and interim reviews.

V. SECTION 13(A) OF THE EXCHANGE ACT AND RULES 13A-1 AND 13A-13

Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 promulgated thereunder require issuers of registered securities to file factually accurate annual and quarterly reports with the SEC, pursuant to Section 12 of the Exchange Act. Rule 12b-20 also requires that periodic reports contain all information necessary to ensure that statements made in those reports are not, under the circumstances, misleading.

A. There Is No Evidence that the Annual and Quarterly Reports of Registrants were Inaccurate.

Respondents have confirmed that the audits and reviews were reported in accordance with US GAAP. Wahl's testimony walked through each transaction, the contracts in the working papers and the supporting documentation illustrating the disclosure in the financial statements and demonstrated that all annual and quarterly reports filed with the SEC "contained all information to ensure that statements made in those reports are not, under the circumstances (or any circumstances), misleading." Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 ("13a") *require issuers* to file factually accurate annual and quarterly reports not the auditor. This case can be distinguished from *Ponce v. SEC*, where Ponce was found to have violated Section 10(b) and Rule 10b-5. The critical difference in the Ponce case versus the A&C case; **Ponce prepared the financial statements (i.e. acted like management)** which he then completed audits and review of the numbers he created, which is a clear violation of the independence rules. The **Honest-Hardworking-Americans did not prepare the financial statements**, therefore there is no 13a violation[21].

B. Accelera: Items 2.01 and 9.01 of Form 8-K are not applicable.

A Form 10 is not a shell company. A Form 10 is a form used for a corporation that registers with the Division pursuant to Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934.

The SEC alleges that Accelera was required to file a Form 8-K for the BHCA business combination. First off, Accelera was not a trading company so there were no investors to protect

[21] **SEC v. Pricewaterhouse, 797 F. Supp. 1217, 1240 (S.D.N.Y. 1992)); also see P.F.F#850.**

at the time of the BHCA transaction was contemplated on November 11, 2013. Accelera was a non-trading entity, therefore, no investors were harmed.

Item 2.01 of Form 8-K, Completion of Acquisition or Disposition of Assets, requires disclosure if a company, or any of its majority-owned subsidiaries, has completed the acquisition or disposition of a "*significant amount of assets,*" otherwise than in the ordinary course of business. BHCA only transferred $737,650 of assets to Accelera[22].

Since Item 2.01 is not applicable for the BHCA transaction, then by default Item 9.01 is not applicable.

Accelera provided additional disclosure in their annual financial statements, the financial statements of BHCA for 2014, 2013, 2012, and 2011[23].

VI. THE DIVISION'S CONFLICTED DEVOR HAS NO CREDIBILITY (see P.F.F.# 93 to P.F.F#147)

Devor's testimony was dismissed four times in Federal Court, for example, in *Lawrence E. Jaffe Pension Plan vs Household International, Inc.* Case No. 02-C5893, "Devor's methodology suffers from the same problem that led to his exclusion in past litigation. He faile*d to show his work" "practices were "improper" but provides no explanation as to when something is "improper," preventing any other accountant from replicating his "analysis."* Devor has **no experience** in applying PCAOB standards as an auditor during a public company audit or review.

[22] **Exhibit 114** – Page F11 - Note 6 – Cash $77,929 + Accounts Receivable = $737,650, which is insignificant when analyzed against a $7,400,000 loss (only 9.9%) in 2013 or the $6,400,000 (only 11.5%) in Debt recorded as of December 31, 2013. The BHCA assets compared to the $36,000,000 loss and $6,432,000 in debt for 2014 is clearly insignificant.

[23] **Exhibit 105 Page F-7 and F-8 Note 3 – BHCA Acquisition and Exhibit 114 – Page F11 - Note 6**.

A. Devor's Blunders & Intentional Misrepresentations Should Disqualify Him Permanently

Devor confirmed during his testimony that there is no legal standard for an expert to operate in this court. A Devor type can act lawless and reckless in any manner he/she wishes as long as someone believes, even irrationally, that his/her misrepresentations constitute truthful arguments. Devor's lawlessness is further fueled by the fact that Deutchman beat him in the *SEC v. Lee Cole, Linden Boyne, Kevin B. Donovan, and Timothy Quintanilla*.

In the Quintanilla matter, Devor maliciously overstated the accountant's liability to produce a result that would have created millions of dollars in fines. Hon. Judge Sullivan, an appellate judge, saw through the SEC and "Devor's" outrageous attempt to financial and permanently ruin Quintanilla. The SEC apologized to counsel in this matter, John Armstrong, for its behavior, undeterred they are pulling the same malicious, horribly damaging behavior against Respondents.

1. Accelera: Devor Prescribes Accounting that Doesn't Even Comply with US GAAP.

Devor intentionally attempts to minimize the complexity of the BHCA transaction. Devor's refusal to acknowledge the complexity of a transaction during his testimony prove he is biased and incompetent as he ignores that Wolfrum had no control over shares from November 11, 2013 to January 1, 2016 (**see P.F.F#568to#666***)*[24].

[24] WAHL: Q. That's not my question, but I'll rephrase. Have you ever audited a publicly traded company in accordance with PCAOB Standards?

DEVOR: A. So again, the last time I audited, myself, a public company was in **1990 and that's before the PCAOB existed**.

WAHL: Q. So the answer is no?

DEVOR: A. That's the answer.

2. Devor Claims BHCA's Consolidation is <u>The</u> Audit Issue.

The share-based compensation adjustments for $9,000,000 and $4,000,000, respectively, and the write-off of goodwill at $4,400,000 (see **Exhibit 1226**) were clearly more material. Devor totally avoids these three adjustments because that would require an understanding of US GAAP in 2020.

3. Devor Intentionally Ignores Accelera's Relationship with Synergistic Holdings.

Devor intentionally does not mention Accelera's relationship with Synergistic Holdings, LLC, when Geoff Thompson and John Wallin were officers in both Accelera and Synergistic, and all the capital injected into Accelera was from Synergistic, not Accelera. A&C did not audit or review Synergistic. The entire relationship with Synergistic was disclosed in the notes to Accelera's financial statements, but it is not discussed in the OIP and the Expert report rendering the entire Accelera case, Devor's testimony and report worthless (**see P.F.F##93to#147&852***)*.

Tellabs's (SCOTUS Ruling) stress on weighing competing inferences tilt decisions in favor of auditors in cases when the pro se can underscore that the issues involve matters of judgment and application of complex accounting rules as to which reasonable professionals may reach different results. Wahl provided various applications of complex accounting rules and that different results can be attributed to the same transaction and that auditors build up professional judgment over years of experience (**see P.F.F#520**).

*Daubert (SCOTUS) is Devor's killer simply because an Expert's analysis must rule out "**<u>subjective belief or unsupported speculation.</u>**" Devor no matter how hard he tries. **<u>Devor cannot</u>***

apply US GAAP and GAAS[25]*. Devor fits nicely with the SEC's crimes as he uses his lengthy experience in reading* ***not applying US GAAP and GAAS and then mischaracterizing and not applying the truth to US GAAP and GAAS in this case****.*

VII. GOING CONCERN AND IDENTIFIED SIGNIFICANT ADJUSTMENTS

The audit opinions for each of the audits of Premier (**see P.F.F.#486***)* and Accelera (**see P.F.F#799***)*, the 2014 $36MM loss (**see P.F.F#765***)* and the 2015 $14.5 loss (**see P.F.F#766***)* had a fourth paragraph by A&C for "Going-Concern." The financial statements prepared by the Registrants appropriately disclose the Going-Concern matter in the notes to their financial statements. The Going-Concern disclosures by the auditor and the company is a major red flag for existing and prospective investors and stakeholders. No reasonable investor would have invested in the Registrants based on the red flags identified by the auditor. A reasonable investor may have unreasonably decided to invest after reading this complete and robust going concern paragraph but that is their free will.

The going-concern and related party disclaimers for all Registrants demonstrate Respondents' **applied heightened independent professional judgment in completing their**

[25] ***In Re Acceptance Ins. Cos., Inc. Securities Litigation, 352 F. Supp. 2d 940 (D. Neb. 2004)***

In his affidavit, Devor sets forth some foundation for his expert opinions, including an explanation of accounting theory and his interpretation of various accounting rules, including FAS No. 5. However, like Fallquist, Devor does not explain how he reached his ultimate opinions nor does he describe the analytical processes he went through to reach his opinions. For these reasons, I conclude that Devor's affidavit does not satisfy the second part of the *Daubert* analysis, and I conclude that, at this stage of the proceedings when the Court is considering the existence of genuine issues of material fact, the Devor affidavit is not particularly helpful to the Court. Accordingly, Exhibit 22 shall also be stricken from the summary judgment record.

audits. The going-concern disclaimer resulted from material losses that created substantial doubt to the Registrants foreseeable operations.

A. The Going-Concern Red Flag Dismisses 10(b) Liability or Any Intent or Aiding and Abetting Claims Under Rule 102(e).

Going-concern qualification cut strongly in an accountant's favor and the "going-concern qualification" is about the most conspicuous 'red flag' that an auditor can wave[26]. This is consistent with **AS 3101(AU341A) paragraph .18(a)** which requires the following language be added to an audit opinion "*There is substantial doubt about the company's ability to continue as a going-concern.*"

B. A&C Acted Independently When it Proposed Millions of Dollars in Audit Adjustments Plus Identified Material Weaknesses and Significant Deficiencies.

In three quarterly reviews of CannaVEST, A&C proposed and forced management to record over $27,778,000 in audit adjustments[27].

The Premier Holdings audit, A&C provided ten audit adjustments, 9 were booked and one adjustment of $110,000[28] was passed on, and identified a global material weakness over financial reporting. A&C identified $107,589 of related-party transactions to be disclosed[29]. The audit adjustments reduced net income by $639,143 which was substantially above A&C's materiality for the 2013 audit. The material weakness covered Financial Reporting, Operations, Acquisitions, Anti-Fraud programs and Corporate Governance. A&C operated independently and prudently to mitigate risk to investors. [30]

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[26] See *In re North American Acceptance Corp. Securities Cases,* 513 F.Supp. 608, 636 n. 15 (N.D.Ga. 1981).
[27] **Exhibit 1029 – page 1 – paragraph 5, 6 and page 2 paragraph 1**
[28] **Exhibit 1107**
[29] **Exhibit 432 Page 7**
[30] **Exhibit 432 pages 9 to 11**

In Accelera, over three years 2013, 2014, 2015, A&C proposed in total approximately $19.2MM in adjustments that reduce net income by $18.04MM in 2014 alone[31]. A&C identified Material Weaknesses pertaining to the following areas[32]:

a) Inaccurate valuation of stock-based compensation recorded by the Company.

b) Analysis of goodwill impairment by the Company

c) Revenue recognition

A&C proposed audit adjustments and identified material weaknesses to ensure that Registrants complied with US GAAP. This dismisses any presumption of 10b liability for the Respondents. The identification of audit adjustments and material weaknesses demonstrates that the Respondents acted independently, there is no evidence of "aiding and abetting under 102 (e).

C. A&C Did Not Publish A Report On The Interim Financial Statements (**see P.F.F#841**). A&C and the Respondents are not liable for misstatements appearing in CannaVEST's unaudited interim (Form 10-Q) financial reports. A&C never made or released any public representations or issued a report regarding those interim financial statements[33].

The SEC Rules under Regulation S-X Rule 10-01 S99-1 Interim Financial Statements (17 CFR 210.10-01). (d) "…….if, in any filing *the Company states that interim financial statements have been reviewed by an independent public accountant*, a report of the accountant on the review must be filed with the interim financial statements." No such representations were made by CannaVEST. The SEC is aware of this rule and the facts but brought the hate anyways.

[31] **Exhibit 1205 page 6 – 2013; Exhibit 1226; Exhibit 1202 page 7 – 2015**

[32] **Exhibit 1205 – pages 7 & 8**

[33] The Second Circuit reaffirmed this rule in *Lattanzio v. Deloitte & Touche LLP* (Warnaco Sec. Litig.), 476 F.3d 147, 154-156 (2d Cir. 2007) (no auditor liability for alleged misstatements in unaudited quarterly financial statements) (citing *Central Bank of Denver v. First Interstate Bank of Denver*, 511 U.S. 164 (1994) and *In re Kendall Square Research Corp.* Sec. Litig., 868 F. Supp. 26 (D. Mass. 1994)).

Because the statements were neither made by the auditor nor attributed to it, however, there could be no liability under *Central Bank*. Id. at 175. Wright and other courts have required that "the misrepresentation must be attributed to [the defendant] at the time of the public dissemination, that is, in advance of the investment decision." Id.; see also *Ziemba v. Cascade Intel, Inc.*, 256 F.3d 1194, 1205 (11th Cir. 2001) ("we conclude that, in light of Central Bank, in order for the [secondary] defendant to be primarily liable under 10(b) and Rule 10b-5, the alleged misstatement or omission upon which a plaintiff relied must have been publicly attributable to the defendant."); *In re Ikon Office Solutions, Inc. Sec. Litig.*, 131 F. Supp. 2d 680, 685 n. 5 (E.D. Pa. 2001) (although accounting firm approved press release, press release failed to refer to accounting firm, and thus Central Bank compelled dismissal); *Great Neck Capital Appreciation Inv. P'ship, L.P. v. PricewaterhouseCoopers, L.L.P.*, 137 F. Supp. 2d 1114, 1121 (E.D. Wis. 2001) (auditor's assistance with press release by reviewing it and advising that it conformed with GAAP insufficient for primary liability; auditor did not draft, publicly adopt, or allow his name to be associated with release and therefore auditor's actions more closely conformed to "aiding and abetting," making imposition of liability inconsistent with Central Bank).

The SCOTUS supports this position and has summarized part of the process as follows: "In an effort to control the accuracy of the financial data available to investors in the securities markets, various provisions of the federal securities laws require publicly held corporations to file their financial statements with the SEC. SEC regulations stipulate that these financial reports must be audited by an independent certified public accountant in accordance with generally accepted auditing standards. By examining the corporation's books and records, the independent auditor determines whether the financial reports of the corporation have been prepared in accordance with generally accepted accounting principles. The auditor then issues an opinion as to whether the

financial statements, taken as a whole, fairly present the financial position and operations of the corporation for the relevant period[34]. There is no opinion attached to the quarterly reviews in the CannaVEST matter, therefore, there is no liability.

This is more recently affirmed by the SCOTUS in *Janus* as Section 10(b) requires a defendant to have made a misstatement or omission. An omission may only give rise to liability if it was necessary to render another statement not misleading, or if the defendant had a duty to disclose. In an interim review, an auditor issues no report, is not responsible for the financial statements and therefore, has no responsibility for interim reviews. CannaVEST has the responsibility and Respondents (Wahl and Chung) never had liability.

The SEC is attempting to egregiously expand its scope of enforcement and have contempt for SCOTUS decisions that an accountant or auditor is only liable for their report[35].

D. A&C Properly Reviewed CannaVEST **(see P.F.F# 148 to P.F.F#361)**.

1. The Recording of the Phytosphere Transaction (see P.F.F#251 to P.F.F#277).

The Phytosphere Transaction was recorded at the agreed to and fixed price of $35,000,000 (**see P.F.F#262&#263**) and was an orderly transaction[36]. The purchase price was not tied to the stock price (**see P.F.F#256to#259**) and was not flexible as Devor and the Division tried to trick this court into believing (**see P.F.F#262**).

[34] *U.S. v. Arthur Young & Co.*, 465 U.S. 805, 810-11 (1984). See also *Bily v. Arthur Young & Co.*, 834 P.2d 745, 750 (Cal. 1992) ("The end product of an audit is the audit report or opinion . . . [on] the specific client-prepared financial statements.").

[35] Andrew Ceresny doesnt mention enforcement actions against an auditor for an "interim review", his speech only mentions the words "audit" and "audit reports."

[36] **P.F.F#158**

Section 2.01, determining that the Purchase Price is $35,000,000 (the contract price determined to be an asset) and the offsetting liability is determined by "**payable** in cash and / or stock at Buyer's discretion in accordance with Section 3.02[37]." (**see P.F.F#260***)*

Section III Payment of Purchase Price: Section 3.01 Section 3.02: is the payment of the liability it has no determination of the purchase price which was set. In beginning of section 2.10. The earn out in Section 3.02 creates the liability to be put on the balance sheet (**see P.F.F#270***).*

The Liabilities of Phytosphere were significantly reduced from quarter to quarter as payments were made (see **P.F.F.#271**).

2. In Q2 Management Updated Its Purchase Price Allocation (see P.F.F#279 to P.F.F#286).

The indicator of impairment based on qualitative factors is not because there is one quarter with a loss if the expectations are to become profitable. Reference ASC 350. (**see P.F.F#279***).*

Management had expectations to be profitable[38]

Additionally, there is no requirement to complete an impairment analysis, during the period where the fair value of assets and liabilities are provisional (i.e. final purchase price allocation was not received until March 2014) unless extreme information comes to an auditor's attention. One quarterly loss, given that management had lofty revenue expectations in the second quarter, would not be an indicator of impairment at that point of time (**see P.F.F#280***).*

3. The SEC Deliberately Ignores Testimony Related to Q3 (see P.F.F#287 to P.F.F#295).

The SEC ignores Wahl's testimony, corroborated by the fact that CannaVEST obtained an updated Phytosphere Valuation Report on March 4, 2014[39]. The Registrants didn't have all the

[37] **Exhibit 1100 Section 2.01**
[38] **Exhibit 1018 Page 36**
[39] **Exhibit 802**

information to restate as confirmed by Wahl (**see P.F.F#148to197**) and Canote testimony (**see P.F.F#230to#295***). CannaVEST management never wanted to record the goodwill impairment and restate* (**see P.F.F#300***).*

Under **ASC 250-10-50-5 Change in Estimate Used in Valuation Technique** "The disclosure provisions of this subtopic for a change in accounting estimate are not required for revisions resulting from a change in a valuation techniques used to measure fair value or its application when the resulting measurement is fair value in accordance with Topic 820." This would also include provisional purchase price such as Phytosphere **ASC 805-10-25-15** and **ASC 805-10-30-1** to **ASC 805-10-30-3**.

A&C couldn't restate as there was no trust and cooperation in management at this time due to management not recording various adjustments that were identified by A&C. A&C also have a list of other material factors that restricted A&C's ability to restate (**see P.F.F# 294**) not including the most significant factor that management had no intention for restating as of November 14, 2013.

The auditors' professional judgment when applying US GAAS and GAAP based on facts and circumstances at the time should not be second guessed, especially for an interim review. The SEC, the SCOTUS agree that it's incorrect for the SEC to apply 102 (e) to Respondents without considering their professional judgment.

4. Other Matters Not Considered. (see P.F.F#296 to #313)

Unreliable Projections Were Provided To A&C

John Misuraca was asked "how often does management miss their projections?" He testified "80% of the time management misses its projections." Wahl testified that he didn't believe they can meet these projections based on my experience with their historical results (**see P.F.F#184***)*. Management materially overstated the projections provided to A&C and PKF (**see P.F.F#**). The third party valuation reports rely substantially on management's projections to

determine the purchase price allocation and overall business valuation[40]. The publicly reported **actual** financial results by CannaVEST demonstrate that the projections and third party valuation reports were not reliable (**see P.F.F#298**).

A&C was correct to not restate the financial statements because Respondents did not have the correct information and there were no indicators of impairment during Q1 and Q2 at the time CannaVEST was terminated on November 14, 2013 (**see P.F.F#174to#176***)*.

Management Had The Responsibility To Restate.

Pursuant to ASC 250, management is responsible for the interim financial statements, not the auditors. Respondents' potential liability is from an issued report as determined by the SCOTUS. PKF and CannaVEST management must agree with the conclusions raised by the SCOTUS. PKF and CannaVEST management never provided the SEC comment letters in 2014 to the Respondents and James Stewart spoke to Wahl in January 2014 and never mentioned a potential restatement. Cannavest management, Cannavest legal counsel and PKF (PKF national office) would have contacted A&C if they had any liability from the restatement.[41]

[40] **Exhibit 53 Page 105 Lines 24-25 and Page 106 Line 1:**

CANOTE: Okay. So you throw a bunch – if you – I bet if you send these projections out to then ("10") valuation firms, you'd come up with ten different numbers.

[41] **Reisman v. KPMG Peat Marwick LLP, 965 F. Supp. 165, 173 n.11 (D. Mass. 1997)** "***the fact of a restatement does not mean an auditor knew the original statements were false at the time they were issued or that the auditor can be held liable for fraud*****" Ezra Charitable Trust, 466 F.3d at 12 (same) (P.F.F).**

Reliance on Vantage Points Draft Fake Report

The reporting and valuation of Goodwill is a financial reporting matter under **ASC 350**. A&C wrote off the entire goodwill balance which only by coincidence matches amount in the report (**see P.F.F#290&291**). Wahl determined the write off based on "other means" (**see P.F.F#184**).

A&C Proposed Three Major Adjustments During Its Review.

The preparation of the interim financial statements is not A&C's responsibility, however, A&C independently proposed three adjustments for $27.8MM in Q3[42]. A&C understood the seriousness of its role and ensured that their engagements complied with US GAAP and GAAS (**see P.F.F#314to#356**).

The SEC Intentionally Overstates the Assets by Ignoring Offsetting Liabilities.

A reasonable reader of the interim unaudited condensed consolidated financial statements for Q1, Q2 and Q3 would clearly understand that the asset exposure to CannaVEST would be on a net basis. The net asset numbers reported in Q1, Q2 and Q3 are substantially lower than the net asset number reported for the 2013 year-end, further indicating that CannaVEST complied with US GAAP and the reviews performed by A&C were in compliance with AU 722 (see **P.F.F.**).

E. A&C Properly Audited Premier and Complied with U.S. GAAP and GAAS (**See P.F.F.#362to#519**)

1. The Note Recording at Historical Cost on January 7, 2013 Was Appropriate (See P.F.F.#405to#417).

The note had a face value of $5,000,000 and was discounted by 83% and recorded in the notes[43].

[42] **Exhibit 1029: Engagement Summary Memo**
[43] **Exhibit 1101: Note Agreement: Appendix 2a pages 16 to 21:**

The We Power, LLC assets were transferred into We Power Ecolutions which was then transferred into New Eco ("WeP") (**see P.F.F#406**). *This is the same business, so the projections and historical financial statements would reflect future expected results, not including the 28 contract opportunities that were transferred to New Eco* (**see P.F.F#405**). Based on Winkler's Testimony and Letcavage's Testimony, any one of these contracts could have generated substantially more cash flow than the $869,000 recorded in PRHL's financial statements. (**see P.F.F#401to403#**). Winkler invested over $5.5MM into WeP technologies[44]. Premier provided $1,649,770 worth of shares to Winkler for the WeP technologies and business[45].

AS 2501(AU342) – Auditing Accounting Estimates paragraphs 01 to 03 ("AS 2501") state:

01 ……. an *accounting estimate* is an approximation of a financial statement element, item, or account.

.03 *Management is responsible for making the accounting estimates included in the financial statements. Estimates are based on subjective as well as objective factors and, as a result, judgment is required to estimate an amount at the date of the financial statements. Management's judgment is*

[44] **Exhibit 49, Page 20, Lines 18:24:**

And did there come a time where WEPOWER…. was generating revenue? ***Yes, we did, I think our first year a few million dollars. I don't remember what the second year was. But we were doing, you know, a few million dollars plus a year.*** *And I invested approximately $5- to $6 million in the project*.

[45] **Exhibit 49, Page 75, Lines 1:5:**

And you see there it says that the company issued almost 16.5 million shares of common stock to WEPOWER LLC, valued at $1,649,770; is that right? Do you see that? Winkller: I see that.

*normally based on its knowledge and experience about past and current events and its assumptions about conditions it expects to exist and courses of action it expects to take (***see P.F.F#416***)*

The operations for WeP were separated from PRHL on January 7, 2013, PRHL management had no control over WeP.

The disposition of a subsidiary is a non-routine transaction with a separate line item is required by ASC 205 and ASC 360 so investors can analysis the going forward business which became The Power Company[46]. PRHL appropriately presented and disclosed the discontinued operations[47].

Exhibit 1100 9th Paragraph Page 1: is the reliable evidence to record the Note at historical cost for $869,000 in accordance with US GAAP ASC 310-10-30[48] providing investors with "management's best estimate" for the realizeable value of the shares (**see. P.F.F#413&414**).

The $5,000,000 Note was discounted by 83% at management's "best estimate" and complies with US GAAP and US GAAS (**see. P.F.F#415**).

2. The Note Valuation as of December 31, 2013 Was Appropriate. (See P.F.F#418)

There was no impairment to the Note as of December 31, 2013 since the Note was settled on March 4, 2014 which was almost 40 days before the financial statements were issued by PRHL on April 15, 2014 (**Exhibit# 454**).

[46] **Exhibit 1118 Page F3:**
[47] **See P.F.F.#446 to #500**
[48] ASC 310-10-30-3, as indicated in paragraphs 835-30-25-8, notes exchanged for property, goods or services are valued and accounted for at the present value of the consideration exchanged between the contracting parties at the date of the transaction in a manner similar to that followed for a cash transaction (i.e., PRHL shares) (**see. P.F.F#519**).

3. The Note Determination of Settlement on March 4, 2014 Was Appropriate. (See P.F.F#419to#424)

The discontinued operations was completed on January 7, 2013 and over a year later on March 4, 2014, Marvin Winkler testified that he believed in the business at that time and saw that the note had value **(see P.F.F#401to403#)**. This almost 14 months later after PRHL disposed of the wind business.

AS 2501 – Auditing Accounting Estimates: paragraph 0.13 *Review subsequent events or transactions.* Events or transactions sometimes occur subsequent to the date of the balance sheet, but prior to the date of the auditor's report, that are important in identifying and evaluating the reasonableness of accounting estimates or key factors or assumptions used in the preparation of the estimate. In such circumstances, an evaluation of the estimate or of a key factor or assumption may be minimized or unnecessary as the event or transaction can be used by the auditor in evaluating their reasonableness.

Subsequent events confirmed by the board of directors, management of PRHL and disclosures in the 2013 Form 10-K confirm the note settlement for 7,500,000 shares @ 0.141 share (**see. P.F.F#456to#426**), which was confirmed with Mr. Letcavage before A&C completed the Form 10-K (**see. P.F.F#362&363**). The Compromise agreement which was effectively signed as of March 4, 2014 and disclosed in the notes for the 10-K. The 2,500,000 shares was additional consideration for the Note[49]. The initial 5,000,000 was already confirmed based on **Exhibit 1116** and **Exhibit 1100**. The shares paid to The-Power-Company were settled and provided on **February 28, 2013** (**See Exhibit 1116 Section 2.2 a**), not on **March 4, 2014**.

[49] **Exhibit 454 Page 6 Exhibit B, Point 2**

4. Accounting for Note Settlement on March 4, 2014.

The Note was settled through equity with the 7,500,000 shares[50] returned to treasury (**see P.F.F#425toP.F.F#427**). The shares were settled at historical cost since the transaction was a related-party transaction to not distort the income statement considering PRHL had no continuing involvement with the Note and WeP since January 7, 2013(**see P.F.F#508**).

The other option to record the Note settlement would be through the income statement but that would be distortive[51] as the Note and the shares were returned to treasury (**see P.F.F#428to#431**)[52].

From January 7, 2013 to March 4, 2014 nothing was communicated to Respondents, including Shek, Wen and Koch by management or Doty Scott that the $869,000 was recorded incorrectly. Irrespective of Doty Scott, management on January 7, 2013 and March 4, 2014 had full support for the $869,000 in accordance with US GAAP and GAAS from the board of directors

[50] **See P.F.F#377**

[51] **Exhibit 46 Page 108 Lines 6-24:**

Yeah, okay. And is there a gain recognized on the P&L for that period? WAHL: No, because that wasn't one of – ***no, because we didn't book the settlement at that point in time. And I wasn't comfortable with booking a gain on the related party transaction, you know, given that, you know, there's such a sensitivity to its valuation. We used it more as like were we comfortable with the 869 being booked as an asset. Did not feel comfortable booking the gain.*** Now you said how many shares were received by your client? I believe, if you read the settlement paragraph, it says about 7.5 million, and I think the stock price was bout – go ahead. Okay, and those shares were received in two lump sums; is that correct? ***Right. But that was the entire consideration received for that note. That's what they received back.***

[52] **See P.F.F#378**

approval of the 5,000,000 shares and the compromise agreement for total 7,500,000 shares (see **P.F.F#432&#425to#427)**.

5. [redacted] Is A SEC Informant.

[redacted] "[redacted] never signed and issued a "FINAL" report. [redacted] never completed any due diligence; [redacted] never spoke to Premier's management or board of directors; [redacted] was unaware the note was settled[53], he was unaware that Winkler invested $5.5MM[54] in the WeP technology (**see P.F.F#395&407**); [redacted] was unaware that WeP had customers like Chase, Best Buy and Sony (**see P.F.F#402&#403**).

AU 336 is not applicable to the A&C's audit work as [redacted] was not retained by A&C (**see P.F.F#381**). Wahl during the audit assumed management prepared the tables[55].

[redacted] and never provides his "Draft" report to the audit firm before April 15, 2014 indicates he facilitated this fabricated scheme created by the SEC[56].

The SEC EDGAR system would **reject** a "draft" or "unsigned" audit opinion or "unsigned" management certifications. A&C's professional judgment utilized the SEC EDGAR system level of scrutiny for the Note audit evidence. [redacted] testimony and conspicuous "Draft" and "Unsigned" reports should be rejected.

[53] **Exhibit 454 Page 6 Exhibit B, Point 2**
[54] **Exhibit 49, Page 23, Line 8** Invested over $5-and-half million.
[55] **P.F.F#364**
[56] **See P.F.F#384to#387** even more conspicuous of the [redacted] scheme is that Haddad that testified in his email **Exhibit#454** only needs "could I get one number", which he extrapolates appropriately to complete the tables that were used by management.

6. The Power Company ("TPC") (**see P.F.F#436to#447**)

As of December 31, 2013, the purchase price allocation had not been completed (**see P.F.F#512**) and management had up until February 28, 2014 to complete, which is a subsequent event.[57]

The purchase price allocation was provisional, the working papers that A&C prepared were to assess the goodwill valuation subsequent to year end (**see P.F.F#448to#454**). The working paper is not required since the purchase price allocation was still provisional. A&C completed the working paper because they were diligent to ensure that there were no a material changes to the goodwill that could impact the December 31, 2013 balance sheet. The purchase price allocation was to be finalized by management (**see P.F.F#510to#513**) in May 2014[58].

The SEC and Devor did not review the contract between TPC and Premier where it clearly does not identify any assets and liabilities transferred from TPC to Premier[59]. A&C is not Premier's management or their legal counsel and can only ascribe assets and liabilities that have sufficient audit support. There was no contractual support for this imaginary customer list (**see P.F.F#445**)[60]. A&C had to comply with US GAAP and GAAS. To further confirm that the assets and liabilities should be clearly documented in the contract see Section 1.1 Purchase and Sale of Stock – Accelera and BHCA very clearly describe the assets to be excluded or to continue with Accelera. The SEC's Corporate Finance Group agreed with A&C's conclusion on the purchase price allocation[61].

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[57] See ASC 805 (ASC 805-10-30-1 to 805-10-30-3)

[58] **P.F.F#368**

[59] **Exhibit 1116 Section 2.1.**

[60] The Press Releases issued by Premier were issued subsequent to closing of The Power Company transaction and assets acquired after closing of the business combination should not be allocated as part of the business combination unless expressly identified in the contract (See P.F.F#436). No assets and liabilities were transferred per Exhibit 1116.

[61] **See P.F.F#441&442**

7. Audit Work Completed by A&C Complies with U.S. GAAP and GAAS

For Premier, A&C ensured that the Note transaction was appropriately accounted for and supported in its audit files[62]. The audit work appropriately complies with US GAAP and GAAS (**see P.F.F#313to#513#**). A&C complied with US GAAP and GAAS, which is supported by the laws in the United States of America (**see P.F.F#856 and P.F.F#**).

F. A&C Properly Audited Accelera and Complied with U.S. GAAP and GAAS (**see P.F.F#520 to #806**)[63].

1. There Are Seven Relevant Agreements In This Transaction That Provide Contractual Control, Among Other Relevant Evidence Ignored by The SEC.(see#658to#666)

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[62] **Exhibit 46 Page 54 Lines 12-18:**

Did you have any conversation with Mr. Letcavage regarding the valuation of the note***? I believe we had a phone conversation.*** What was the substance of that conversation? ***I don't remember specifics, but if I remember correctly, it was – you know, we felt the numbers were appropriate.***

Exhibit 46 Page 55 Lines 3-18:

What did Mr. Letcavage say in that phone call? I can't remember specifics. Do you remember generally***? I believe that we discussed, you know, the 869 and the valuation and felt that, at that point in time, it was -- based on the information that we were provided, that that was a fair number***.

[63] **In re IKON Office Solutions, Inc., 2002**

"GAAP is a term of art that encompasses a wide range of acceptable procedures"

The SPA and related agreements is similar to Wolfurm selling his house ("BHCA") to Accelera. Accelera had multiple events of default; then entered foreclosure and the house was returned to Wolf effective January 1, 2016 (**see P.F.F#611**).

The 7 agreements provide contractual control. The operating agreement[64], employment agreement[65] provides for Wolfrum's reporting to the board of directors and he is in charge of Accelera's 100% owned subsidiary HMSO. The contracts can be enforced and there is sufficient evidence that Accelera enforced these contracts (**see P.F.F#705**). Then the Security Agreement[66] is very clear control transferred and the SPA[67] among other things confirmed that the agreement was effective and closed on November 11, 2013.

The economic interest with the debt incurred with the SPA, the Secured Promissory Note[68] and the Security Agreement. The Security Agreement transfers 100% ownership in BHCA and then provides Wolfrum with collateral in Accelera for the debt owed to him by Accelera.

2. BHCA & Accelera Share Purchase Agreement (P.F.F#697to#704)[69]

"THIS STOCK PURCHASE AGREEMENT (the "Agreement") is made, entered into and effective as of November 11, 2013, by and among Blaise J. Wolfrum, M.D., ("Seller"), an individual resident of the State of Illinois, Accelera Innovations, Inc. ("Purchaser")."

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[64] **Exhibit 1213**
[65] **Exhibit 1212**
[66] **Exhibit 1207**
[67] **Exhibit 1210**
[68] **Exhibit 1216**
[69] **ASC 805-10-20 GLOSSARY: P.F.F#674 CONTROL:** The direct or indirect ability to determine the direction and policies through ownership, contract or otherwise. ***Accelera obtains control by ownership, contract and by other means by providing consideration an obligation to pay Wolfrum $4.5MM and by compensating him with shares at each event of default.***

Section 1.1 Purchase and Sale of Stock: clearly states that "The Parties agree the following assets are **excluded** from the purchase and sale of Stock **and shall remain *the property of Seller after Closing: l) Company's cash and operating accounts.*"**

Purchase Price – Section 1.1.1.1 *It clearly states that 90 days from "Closing" defined in 2.1*. "**Section 1.1.1.1 and 2.1 state that transaction is closed and affective as of November 11, 2013.**" The transaction is closed meaning its effective as of November 11, 2013. Wahl also said this in his trial and deposition testimony (***see P.F.F#536tp#539***).

Section 2.*1 the Closing of the transactions contemplated by this Agreement shall be effective as of November 11, 2013 ("Closing").* It clearly states that the transaction was "***closed and effective***" and Accelera and Wolfrum had to comply with the agreements. Wolfrum had to be appointed manager of Accelera Healthcare Management Service Organization LLC, which was disclosed throughout the 2013, 2014 and 2015 Form 10-Ks issued by Accelera. There is no evidence by that Wolfrum was "unwilling or unable to act" in this capacity in fact it's the opposite (**see P.F.F#607to#621**).

S**ection 2.4.1**, ***A Unanimous Written Action of the Stockholders approving the sale of Seller's Stock to Purchaser*** which……*clearly indicates consolidation is warranted.*

Section 5.4: This section states the business should be conducted as usual by Accelera until the purchase price is paid. The SEC's comments about bank accounts, hiring, etc. mischaracterizes the contract and does not apply as the applicable law and jurisdiction is determined by the SPA.

3. Form 8-K Filing

All agreements were disclosed on Form 8-K[70] and a press released on December 2, 2013 and then Accelera puts out a press release on December 3, 2013 (**see P.F.F#783#to#806**).

[70] **EXHIBIT #103**

4. Enforcement of Contracts (see P.F.F#705)

There is substantial evidence that Wolfrum was working for Accelera and the relationship was fully disclosed in the Form 10-Ks from 2013 to 2015 (**see P.F.F#783#to#806**).

5. Operating Agreement (see P.F.F#708to#709)

Accelera Innovations is a 100% Member of Accelera HMSO. Article 6 – Power and Duties of Managers. Clearly identifies Wolfrum as the Manager of Accelera HMSO. "Dated as of November 11, 2013, is (a) adopted by the Manager(s) (**see P.F.F#708**)

Accelera acquired 100% of the 100,000 issued and outstanding shares of BHCA from Wolfrum and Accelera HMSO, was a wholly owned subsidiary of Accelera, acquired the right to operate BHCA in accordance with the Operating Agreement providing Accelera control over the subsidiary BHCA (**see P.F.F#**).

6. Security Agreement

Dated November 11, 2013. Executed by Blaise . Section 2. Indebtedness Secured. Page 1. This Agreement and the Security Interest created……..(" Indebtedness") ***wherein Debtor purchased 100% of the shares of stock of Behavioral Health Care Associates, Ltd. (past tense),*** an Illinois corporation, (the "Company") from Secured Party (**see P.F.F#710**)[71].

7. Employment Agreement

Effective November 20, 2013, Accelera also entered into an employment agreement with Blaise J. Wolfrum, M.D., *as the President of the Accelera business unit "Behavioral Health Care Associates" reporting to John Wallin, CEO of Accelera*[72]. *In consideration of the services, the Company agreed to issue a stock option to purchase Six Hundred Thousand (600,000) shares of*

[71] **ASC 805-10-20 GLOSSARY: P.F.F#674 CONTROL:** The direct or indirect ability to determine the direction and policies through ownership, contract or otherwise.
[72] **ASC 805-10-20 GLOSSARY: P.F.F#674 CONTROL:** The direct or indirect ability to determine the direction and policies through ownership, contract or otherwise.

the Company's Common Stock under the terms of the Company's 2011 Stock Option Plan at an exercise price of $.0001 per share. The Six Hundred Thousand (600,000) shares shall vest over the course of the Three (3) years, earned annually, at Two Hundred Thousand (200,000) shares each year; after the commencement of employment so long as he remain an employee of the Company. The employment agreement with Wolfrum further provided that the Company was to pay Wolfrum a base salary of $300,000 per year to be paid at the times and subject to the Company's standard payroll practices, subject to applicable withholding. This employment agreement is a three (3) year term agreement, with an automatic annual renewal and will include an annual review process **(see P.F.F#711to#722)**.

The employment agreement isn't contingent on any of the other 6 agreements, which clearly defines the employer and employee relationship, providing evidence to consolidate BHCA based on a contractual relationship **(see P.F.F#666)**.

8. Directors and Officers Insurance ("Insurance") (see P.F.F#723to#724)

There was an employer-employee relationship between Wolfrum and Accelera. The completion of Insurance questions the credibility and integrity of Devor, Boreum and Freeman's testimony claiming that the employment agreement was not in effect. The employment agreement was in effect. BHCA did not have D&O Insurance as confirmed by Wolfrum and Boreum's testimony.

9. Written Consent of the Board of Directors (see P.F.F#725)

Accelera paid Wolfrum the 600,000 shares in the employment agreement as part of the termination agreement. The shares were "earned" by Wolfrum and no reference is made to the audit for 2015 as Boreum stated. The board minutes were consistent with paragraph 6 (and page 2 first

paragraph) of the employment agreement, which is **Exhibit 1212**. This is not a coincidence and confirms the intent of the 7 agreements was to consolidate BHCA **(see P.F.F#)**.

10. 2013 and 2014 Form 10-Ks ("10-Ks") (see P.F.F#713to#716)

Employment Agreement Item 10 pages 44 to 46 lists Wolfrum as an executive. **Pages 49 to 50** same as previous. Plus on **page 54** it discloses the employment contract. Discloses Blaise Wolfrum – as an officer of Accelera and they are accruing shares to him. His title is M.D. Chief Strategic Officer

Wolfrum was granted 600,000 shares, the options awarded will vest in equal annual installments over a three-year period.[73] The Form 10-Ks fully disclosed that Wolfrum is employed by and an officer of Accelera[74].

Accelera disclosed on **F-6 Page 65, paragraph 5.** "The consolidated financial statements include the accounts of Accelera ***and its 100% owned subsidiaries, Behavioral Health Care Associates, Ltd***.,…" (**see P.F.F#783to#806)**

11. First Amendment to SPA (see Exhibit 1217)

Under the first amendment to the SPA section 1.2 of **Exhibit 1210** is deleted so no party could cancel the agreement. ***The agreement can't be cancelled its, effective and closed as of November 11, 2013, which means consolidation!***

THIS FIRST AMENDMENT TO STOCK PURCHASE AGREEMENT (the "Amendment") is made, entered into and ***effective as of February 24, 2014***, by and among Blaise

[73] **Exhibit 1228: page 47**

[74] **ASC 805-10-20 GLOSSARY: P.F.F#674 CONTROL:** The direct or indirect ability to determine the direction and policies through ownership, contract or otherwise. ***Accelera obtains control by ownership, contract and by other means by providing consideration an obligation to pay Wolfrum $4.5MM and by compensating him with shares at each event of default.***

J. Wolfrum, M.D. ("Seller"), Accelera Innovations, Inc. ("Purchaser"), a Delaware Corporation and Behavorial Health Care Associates, Ltd. ("Company"), an Illinois Company. ***The agreement is effective 50 days before the 2013 audited and consolidated financial statements were filed on Form 10-K with the SEC.***

This confirms that they agreed to provide additional time for the purchaser to pay the Seller and confirms the transaction. The most relevant change to the agreement in the 1st Amendment is that it **deletes 1.1.1.1** in the original SPA in its entirety (**page 1 Section 1A**).

The First Amendment to the SPA terminates the SEC"s argument that the agreements are reliant on ***Section 1.1.1.1 because in Exhibit 1217 page 1 Section 1A it is deleted.*** The SEC and Devor didn't read; understand the amendment and intentionally left this out of there argument to not or deconsolidate, which doesn't comply with US GAAP **(see P.F.F**#666) since Wolfrum doesn't have control of the BHCA's shares**. Exhibit#188** clearly states that BHCA shares are held in escrow until the payment of the $4.5MM, similarly under **Exhibit 1210 section 5.4**, where under **Exhibit #188**, Accelera shall operate the business in a similar manner until the $4.5MM is paid (**see P.F.F#656to#663**)[75].

Exhibit 1217 does not replace **Section 2.1 (page 1 paragraph 9) in Exhibit 1210**, which states that the deal is closed and effective as of November 11, 2013.

Page 2, paragraph 3, as per paragraph 6.1 of the SPA (Exhibit 1217) all "Due Diligence" has been completed. Confirms the effectiveness of the employment agreement.

[75] **ASC 805-10-20 GLOSSARY: P.F.F#674 CONTROL:** The direct or indirect ability to determine the direction and policies through ownership, contract or otherwise. ***Accelera obtains control by ownership, contract and by other means by providing consideration an obligation to pay Wolfrum $4.5MM and by compensating him with shares at each event of default.***

12. Second Amendment to SPA (see Exhibit 1218)

THIS SECOND AMENDMENT TO STOCK PURCHASE AGREEMENT ***is made, entered into and effective as of March 18, 2014***. Approximately 28 days before our audit opinion was released on the 2013 audit.

Amendments A. This confirms that they agreed to provide additional time for the purchaser to pay the Seller under the SPA and confirms the transaction. However, the most relevant change to the agreement in the 1st Amendment is that it **deletes 1.1.1.1** in the original SPA in its entirety (**page 1 Section 1A**). This destroys the SEC's non-GAAP fake case.

Amendments B. Purchaser, Seller and Company agree that Article 1.2 of the Stock Purchase Agreement is hereby deleted in its entirety and the following new Article 1.2 is substituted in its place:

Prior to Seller's receipt of the payment set forth in Section 1.1.1.1, Seller shall have the right to immediately upon written notice to the other party cancel and terminate this Agreement in its entirety and be released from any and all obligations set forth herein. Accelera can't avoid the obligation to Wolfrum as confirmed by the audit evidence in the debt confirmations (**see P.F.F #758tp#760**)[76].

13. BHCA Third Amendment to SPA (see Exhibit 1257)

The agreement confirms the effectiveness and conclusions in the first amendment to the SPA in February 2014 and the second amendment in March 2014. Confirms details for confirmation **(see P.F.F#758to#760)**.

[76] **See P.F.F#658to#666**

14. Termination Agreement

The 600,000 share compensation ties into the original employment agreement and the termination agreement provides a clear breakup of the original 7 agreements. Blaise confirmed he couldn't sell BHCA without this agreement. Accelera is providing Wolfrum (**see P.F.F #612**) his house back (BHCA) and defines all the surviving obligations from the original seven effective agreement **(see P.F.F#750to#752)**[77].

15. BHCA Promissory Note Agreement (see P.F.F#) (see **Exhibits 1216 and 1247**)

The $3.5MM obligation from Accelera to Wolfrum further confirms the economic interest that Accelera had in BHCA and requires consolidation of BHCA by Accelera. ***Yoda documents that the debt and interest was accrued in Accelera's trial balance before we started the audi***t. **Exhibits 1218, 1257** and **1217** mitigate any default interest to be paid as they defer the payments and provide compensation to Wolfrum for each event of default. Each Exhibit 1218, 1257 and 1217 deletes 1.1.1.1 and therefore the agreements are effective. **(see P.F.F#726to#749)**.

16. Debt Confirmations

The changes to the amendment in February 2014 and March 2014 substantially change the original SPA. In 2013, 2014 and 2015, Wolfrum never wrote or said that the transaction was not closed. Wolfrum confirmed the $4.5MM debt each year confirming the economic interest in Accelera (**see P.F.F#758to#760**). Accelera had trouble paying the liability and the financial

[77] **ASC 805-10-20 GLOSSARY: P.F.F#674 CONTROL:** The direct or indirect ability to determine the direction and policies through ownership, contract or otherwise. ***Accelera obtains control by ownership, contract and by other means by providing consideration an obligation to pay Wolfrum $4.5MM and by compensating him with shares at each event of default.***

reporting presentation as a long-term subordinated notes payable, indicating that the liability would not be paid in the next 12 months from December 31, 2014 and 2013 (**see P.F.F#757and#799**).

Wolfrum cooperated with the audits (**see P.F.F#615**). Wolfrum provided projections for the investor presentation that represented BHCA was acquired by Accelera (**see P.F.F#600**). Wolfrum participated in investor conference calls to move Accelera forward and to pay off the $4.5MM owed to him (**see P.F.F#602to#606**). The investment bankers could not raise capital and quit **(see P.F.F#602to606)**.

17. 2015 Restatement not Communicated to A&C

The SEC understood that Accelera's new auditor never communicated the 2015 restatement, which is a required communication of a restatement or potential restatement to A&C **(see P.F.F#556to#565).**[78]

VIII. MS. CHUNG IS A QUALIFIED, COMPETENT SECOND PARTNER

Ms. Chung, MBA CPA has 20+ years of business and professional experience. She has the appropriate professional qualifications to be a second partner for an interim review (**AS 1220: Engagement Quality Reviewer)**. Chung at the time of the review had significant regulatory and public company experience. She was involved with three successful and no comment PCAOB inspections. Three more than Devor. Chung has applied PCAOB standards to a public company audit and review, which Devor has never completed in his entire life.

[78] Reisman v. KPMG Peat Marwick LLP, 965 F. Supp. 165, 173 n.11 (D. Mass. 1997) "*the fact of a restatement does not mean an auditor knew the original statements were false at the time they were issued or that the auditor can be held liable for fraud*" Ezra Charitable Trust, 466 F.3d at 12 (same).

Ms. Chung would not risk reputational harm and her CPA license to sign off on an interim review, Ms. Chung's testimony, *"I would not sign or initial any working papers or financial statements or any type of document unless she reviewed and understood the implications.*" Her 20+ year career in the highly regulated financial institution industry and assurance profession with no regulatory issues speaks to her objectivity in completing tasks which ensure compliance with **AS 1220.02. Objectivity (AS7)**.

Chung maintained her independence from CannaVEST. She ensured that the independent work she completed complied with US GAAP/GAAS and attended the planning meeting[79].

The arguments and defenses presented apply to Chung. The persecution of Chung was an attempt to maintain leverage over Wahl. Chung made no representations publicly or to CannaVEST[80] and should be compensated for the damages incurred by the SEC.

IX. ADDITIONAL DEFENSES

A. Loss Causation

In CannaVEST, the stock increased trading through the year of 2013 and into 2014. The restatement of the quarterly reviews had no impact on the stock price. Devor claims that the stock never traded. On February 22, 2014, there was 50,100 shares traded on that date with a high price of $210.00 per share. The Annualized Value Traded by CannaVEST is $5,764,884 compared to Premier $4,484,415, which CannaVEST is $992,469 higher than Premier (**see P.F.F#**).

[79] **see P.F.F#239**

[80] **Exhibit 54 Page 24 Lines 13-15**

Q As an engagement quality reviewer, do you ever speak to the client? Chung A No.

The Form 8-K (**Exhibit 714**) filing, Roen Ventures elects to convert its shares at $0.60. Trading volume on that day was 50,100 shares so Roen could have made $10,521,000 gross on that day alone *(***see P.F.F#269***)*.

The share volume for PRHL would allow investors to trade out and realizes profits. The volume would also further support that there could be no implied or actual losses. During the period for the 2013 audit and Note settlement in early March 2014. PRHL's stock traded in a very tight range of $0.13 to $0.25 per share based on daily closing prices **(see P.F.F#519**).

Accelera's stock began trading in December 2014, which there was a $7.2MM loss in 2013 and a continued trajectory to a $36MM loss for 2014. The Going Concern disclosures and material losses in 2013 and 2014, a reasonable investor that read the financial statements would not invest in Accelera. The Accelera stock price was liquid enough for investors to dispose shares through January 1, 2016 the date of the Termination Agreement[81]. For 2013 and 2014, Accelera raised substantially all of its capital through Synergistic Holdings, LLC.

B. Timeliness

The SEC's ability to bring claims under Section 10(b) faces two temporal limitations, both of which must be satisfied: claims must be brought within two years of "discovery of the facts constituting the alleged violation," and not more than five years after the alleged violation. 28 U.S.C. § 1658(b).

The two-year limitations period is triggered once the plaintiff discovers, or with reasonable diligence should have discovered, the facts constituting the violation, whichever comes first[82].

[81] **P.F.F#620** Wolfrum day trading in Accelera's stock while he was a director and an officer of Accelera.
[82] Merck & Co. v. Reynolds, 559 U.S. 633, 653 (2010). In other words, where the plaintiff never actually learned of the alleged fraud, the limitations period commences when "a reasonable investor conducting . . . a timely investigation would have uncovered the facts constituting a violation." City of Pontiac Gen. Employees' Ret. Sys. v. MBIA, Inc., 637 F.3d 169, 174 (2d Cir. 2011). A fact is sufficiently discovered in this context when "a reasonably diligent plaintiff would have sufficient information about that fact to adequately plead it in a complaint."

The SEC cannot bring the claims for Cannavest and Premier, the order wasn't presented within two years of "discovery of the facts constituting the "alleged" violation." On this basis alone, the section 10b and 102 (e') liability should be dismissed for Respondents.

X. THE SEC'S BAD AND INCOMPETENT BEHAVIOR

A. These Are Very Unskilled Professionals...

In Andrew Cerseney's speech, "in every office, utilizing the Division's skilled accountants and talented attorneys to build the cases." The attorneys can't apply the law and the accountants are trying to find their little GAAP books trying to pulverize one accountant, his wife and his 73 year old friend. Surely there must be matters with investor harm to be spending such a waste of taxpayer money.

B. Attorney Representation

Wahl's legal counsel confirmed the bad behavior; egregious prosecution and complained that 15 to 20 attorneys were on conference calls yelling and screaming. Qualls made phony threats of ethics violations to cover up her own crime of the recorded message.

C. Unlawful Deposition

Deposed Ms. Chung for 9 hours, yelling and screaming at her, when she was a second partner on only one small quarterly review in 2013.

D. The SEC Filed Fraudulent Claims in A&C's Chapter 7 and Wahl's Chapter 11 Bankruptcy

Once the Honorable Theodor Albert and the U.S. Trustee Counsel reads the Respondents Final Briefs and P.F.F, he will understand that the claims filed by the SEC were fraudulent creating

a direct charge to Charles J. Kerstetter[83]; Angie Dodd[84]and for aiding and abetting in the fraud by Alyssa Qualls[85]; Jennifer Calabrese[86]; and Donald J. Searles[87] [88]

These same parties filed two fraudulent claims and we'll recommend that they receive the maximum $1mm fines and 5 year jail terms per offense.

E. Further Denial of Due Process

The SEC entered Wahl's bankruptcy to convert his personal Chapter 11 to Chapter 7.

The SEC illegally stated they had a right to unliquidated payment against Wahl so they could illegally punish Wahl and Chung in any way they could.

The SEC lied to the Federal Judge, the Trustee (Department of Justice); the Office of the U.S. Attorney and each attorney that represented creditors and the judge called them on their own misrepresentations[89].

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[83] **P.F.F#821**
[84] **P.F.F#828**
[85] **P.F.F#815**
[86] **P.F.F#814**
[87] **P.F.F#813**
[88] A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

[89] THE COURT: "Of course, if you guys – I'm saying the SEC prevails, you have a non-assertion ("Dischargeable") judgment, don't you?

Angie Dodd: "yes, that is right."

THE COURT: "So in a sense, why do you care?.."

Angie Dodd: "Well, I would propose you convert the case right now…..

Mr. Searles and Angie Dodd attempted to convert the case claiming, "it would benefit everyone." The only person it would benefit would be the SEC.

XI CLOSING STATEMENT

Gregory Wahl, Georgia Chung & Michael Deutchman are the heroes in this valuable true story of Honest-Hardworking-Americans.

The SEC had not one shred of proof of a single penny of loss to any investor, zero risk to investors in the future and were not able to present one single connection between the fake allegations and any rule of law or applicable accounting standard. Their witnesses and experts lied and/or were totally incompetent which substantially reduced the legitimacy of their case.

There was however plenty of FRAUD on the part of the SEC knowingly bringing this entire set of lies, the millions of dollars used for no good reason and the tens of millions more that will be lost forever because of the 100+ great paying American Small Business jobs that were destroyed in the process.

Notwithstanding, there is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations[91].

In this case, Defendants totally lack the Willfulness Requisite, and no evidence has been provided throughout this attack to prove the claims by the SEC for aiding and abetting alleged

[9090] Whereas, ALL LIABILITY is assumed by a Reporting Company's Management, when they certify that they have reviewed their annual reports, containing ANY Auditor's work, and that they do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made. In light of the circumstances under which such statements were made, and are not misleading with respect to the period covered by such reports, the registrant's Certifying Officer(s) are fully responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting.

[91] See P.F.F#354;256;360;514;804;805;806.

against the Defendants in this charade falsely charging violations of Rule 2-02(b) of Regulation S-X as well as of Section 4C(a)(3) of the Exchange Act and Rule 102(e)(1)(iii) of the SEC's Rules of Practice.

Each cause of action and/or claims of violations of SEC statutes, rules and regulations fails by Reason of the Doctrine of Laches and by reason of the complete failure of the Division to comply with Section 929U of the Dodd-Frank Act, 15, U.S.C. Section 78d-5, as the case was filed well over 180 days (almost 15 months later) after receipt of the Wells Notices by the Division.

At all times relevant, with respect to the audits and reviews which are the subject of this matter, Respondents expressed and provided completely appropriate professional judgment in absolute conformity with EVERY applicable professional standard of Accounting.

Respondents never engaged in unprofessional conduct with respect to the audits and reviews presented throughout this matter and the SEC has failed entirely to prove ANY of their case whatsoever.

This case totally lacks the Scienter Requisite for the claims asserted against Respondents for violations of Exchange Act Section 10(b) and Rule 10b-5, thereunder, and further, the SEC never proved ANY Willfulness Requisite for ANY of the claims it made against Respondents for aiding and abetting alleged in violation of Exchange Act Section 13 (a) and Rules 13a-1 and 13a-13, thereunder.

The Division's request for disgorgement is inappropriate, illegal, unconstitutional and impermissible because it lacks all authority to order such penalty under Section 21(d) and still further because the audit fees paid by the Registrants in question were not EVEN paid to Wahl, Chung or Deutchman;

A&C was paid the audit fees in question and is still owed $65,000 from Accelera. Wahl, Chung and Deutchman have no control over A&C. Any new venture created by Wahl, Chung or Deutchman is not required to provide relief, which is dishonestly sought by the Division were not part of the original OIP that the Division wrongly brought against Respondents on December 4, 2017.

The SEC in its endless and shameless tyranny of lies alleged the standard paragraph of "cast-a-large-fake-net" of securities violations by number without ANY actual evidence. They used this predictable strategy that has become their stock-and-trade method to overwhelm Respondents and enter into Wahl's Chapter 11 in Federal Court, claiming the violations were committed before ANY Due Process occurred, and knowing full well that there was not a shred of evidence to support the bogus complaint. That lie allowed the Corrupt-Government-Officials to inflict more hate and harm against Wahl and his family and steal away their livelihoods without ANY justification or rights.

The SEC denied the Honest-Hardworking-Americans due process under the Due Process Clause of the Fifth and Fourteenth Amendments of the Constitution by issuing the fraudulent December 4, 2017 Press Release and as is their typical bad actor strategy, has bullied, attacked and then forced Wahl and Chung into financial ruin.

The Division's Press Release and OIP was an intentional, pre-meditated attack that unconstitutionally took Respondents property without compensation, a further violation of the Fifth Amendment of the Constitution; and there was no conduct that justified ANY relief requested by the Division. Respondents absolutely expect to be compensated for each minute and every last penny of damage suffered by Wahl & Chung.

The Division and its Attorneys and Accountants, including its so-called expert Devor, who was proven to be totally biased in this case with no knowledge whatsoever about the case or on

ANY accounting issue for that matter, and under which he provided both false and incompetent expertise on, are expected to pay $2,238,063 in damages to Chung: $51,136,949 to Wahl and the $2,512,112 in damages (see **P.F.F.#837**) to Deutchman. Such money is available according to the recent Congressional Hearings as illegally collected Disgorgement Funds which raise the inexplicable fact that such collections are not only without any Congressional Authority, but the reason the money is not paid back to investors, is because today's SEC cannot actually quantify the money. It was wrongly collected when no investor was harmed, so there is no victim to quantify damage or to pay the wrongly collected money back to. Wire instructions included (see **P.F.F #840**).

Dated: May 28, 2020

Respectfully Submitted,

/s/ Georgia C Chung

Ms. Georgia C Chung

/s/ Gregory A. Wahl

Mr. Gregory A. Wahl