UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Admin. Proc. File No. 3-21841

In the Matter of the Application of

Ahmed Mohidin and George Weinbaum

For Review of Action Taken by PCAOB

BRIEF OF AHMED MOHIDIN IN SUPPORT OF HIS APPLICATION FOR COMMISSION REVIEW

April 18 ,2024

Under Section 19(d)(2) of 15 USC 78s(d)(2) and SEC Rule 440. Ahmed Mohidin (Mohidin) asks the SEC review the Public Company Accounting Oversight Board's (PCAOB) December 20, 2023 order sanctioning me, received by counsel January 5, 2024.

The errors of law include: misapplication of facts, reversing the burden of production, creating ex post facto law, ignoring PCAOB precedent and running the statute of limitations (SOL).

- Case 105-2019-007 began June 8, 2018, 70 months ago, when the firm (MJF & Associates, APC, MJF) and Mr. George Weinbaum (Weinbaum), an MJF partner received letters from Craig Seigel, then of the PCAOB. This initiated the PCAOB Division of Enforcement & Investigation

OS Received 04/18/2024

(DEI) informal investigation of the restatement of Adamant DRI Processing, Inc's financial statements as of and for the year ended December 31, 2016. The DEI asked for MJF's audit work papers for 2017, 2016 and 2015. The DEI looked at work papers for over six months and found nothing wrong with the Adamant audits. The DEI then abandoned the restatement issue and changed the investigation to look for potential violation of my bar when it found a few emails from me during the bar period. The DEI then focused on e-mails that were not part of any audit work papers. The emails contained questions MJF's staff persons asked me which I responded to. That was my "crime" and perhaps I should have ignored them. My intention was not to participate in any audit and I had no access to any audit work paper binder during the bar period. The PCAOB's DEI claimed I participated in audits and states on page 6 of PCAOB order No. 105-2019-007 dated March 7, 2023:

"According to the Initial Decision, Mohidin violated the Bar Order in relation to these issuers by:

- Reviewing work papers for issuer audits and forwarding substantive comments to the engagement team members
- Reviewing drafts of issuers clients' filings with the SEC, raising substantive questions about language in those documents with engagement team members, and suggesting specific revisions to those documents before they were filed with the SEC.
- Discussing substantive issues related to significant audit areas with engagement team personnel; and
- Communicating directly with issuer client personnel about substantive accounting questions and how certain issues should be addressed in the clients' financial statements before they were filed with the SEC. "

However, I did not prepare, sign-off or review any document in any MJF audit binder. Under PCAOB rules, if a work paper is not in the audit binder or not signed off, it is presumed not to exist. The emails

which the PCAOB used to support its case of "participating in audits" are few and not part of any audit binder. In addition, Weinbaum, was the engagement partner on all the clients. Weinbaum signed off on the audit reports as the partner and was not influenced by me or any other person.

In addition, I received no compensation from MJF on any issuer client during the bar period. The PCAOB looked at MJF's bank statements and related financial analysis and found no evidence I received anything.

Compare what I did to Christopher Andersen during his bar period (PCAOB Release No. 105-2013-008 dated October 22, 2013.) Andersen's actions if not more serious than mine were at least equal and therefore, my sanctions should be no more than this. Andersen got: no fine, bar or suspension. The PCAOB should bear the burden to explain why I was treated differently than Christopher Andersen. Why was I not offered Andersen's "deal"? Is this because the PCAOB favors Big 4 CPA firms over all others?

For Andersen's activities during his suspension period, see paragraphs 18-33 of PCAOB Release No. 105-2013-008. Andersen was a salaried director at Deloitte during his bar. Being compensated by D&T violated his bar order.

The PCAOB stated Andersen's case was not adjudicated. If the PCAOB made me the same sanction offer as Andersen, which was no bar or fine, I would have accepted it. The PCAOB also claims it currently increased its sanctions since the Andersen's case was concluded. Case law does not allow this as was stated in: *Peugh v. United States* 133 S. Ct. 2072 (2013).

Held: The Constitution's Ex Post Facto Clause prohibits courts from sentencing a defendant based on guidelines promulgated after he committed his crimes, when the new guidelines provide a higher sentencing range than the version in place at the time of the offense, page 2077. This concept should apply to the PCAOB too. Or will the PCAOB admit it has no "guidelines" and its "sentences" are arbitrary.

On page 11 of order No. 105-2019-007, the PCAOB claims it never offered me a $20,000 fine in its initial offer of settlement. My attorney Mr. Robert Cox of Briglia Hundley, P.C. told me this. I countered with an automatic lifting of the bar after two years without filing the petition, which the PCAOB refused. This should be investigated by the SEC. I previously sent you my attorney Mr. Robert Cox's email to support my position. Please see Robert Cox's email on this subject which was sent to the SEC and the PCAOB on January 26, 2024

- Statute of limitation (SOL). The statute of limitations (SOL) has passed. The PCAOB claims the SOL time lapsed and I forfeited it. How could I invoke the SOL before the five-year SOL ran out? What triggering event begins the SOL? When should I have first asserted this? On what basis does the PCAOB claim it has more rights than the SEC? In SEC vs Brian Sewell..., No. 1:24-cv-00137-UNA, filed February 2, 2024, the SEC requested tolling of the SOL.

  Also see Gabelli vs SEC 133S. Ct. 1216 (2013): In 2008, the SEC sought civil penalties from petitioners Alpert and Gabelli. The complaint alleged that they aided and abetted investment adviser fraud from 1999 until 2002. Petitioners moved to dismiss, arguing in part that the civil penalty claim was untimely. Invoking the five-year statute of limitations in 28 USC § 2462, they pointed out that the complaint alleged illegal activity until August 2002 but was not filed until April 2008. The District Court agreed and dismissed the civil penalty claim as time barred. The Second Circuit reversed, accepting the SEC's argument that

because the underlying violations sounded in fraud, the "discovery rule" applied, meaning the SOL did not begin to run until the SEC discovered or reasonably could have discovered the fraud.

Held: The five-year clock in 28 USC § 2462 begins to tick when the fraud occurs, not when it is discovered. Pp. 1220-1224. Neither I, MJF or Weinbaum were accused of committing any fraud.

Kokesh vs SEC 137 S. Ct. 1635 (2017): In 2009, the SEC brought an enforcement action, alleging that petitioner Charles Kokesh violated various securities laws by concealing the misappropriation of $34.9 million from four business-development companies from 1995 to 2009. The Commission sought monetary civil penalties, disgorgement, and an injunction barring Kokesh from future violations. After a jury found that Kokesh's actions violated several securities laws, the District Court determined that 28USC § 2462's 5-year limitations period applied to the monetary civil penalties. With respect to the $34.9 million disgorgement judgment, however, the court concluded that 28 USC§ 2462 did not apply because disgorgement is not a "penalty" within the meaning of the statute. The Tenth Circuit affirmed, holding that disgorgement was neither a penalty nor a forfeiture.
Held: Because SEC disgorgement operates as a penalty under 28USC§ 2462, any claim for disgorgement in an SEC enforcement action must be commenced within five years of the date the claim accrued. Pp. 1641-1645. "A 5-year statute of limitations applies to any 'action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise', 1639. "As to the civil monetary penalties, the District Court determined that~ 2462's 5-year limitations.
period precluded any penalties for misappropriation occurring prior to October 27, 2004-that is five years prior to the date the Commission filed the complaint .... Statutes of limitations 'set a fixed date when exposure to the specified Government enforcement efforts ends" 1641.

US v. Core Laboratories, Inc. 759 F. 2d 480 (5th Cir.,1985). The gist is as follows: It is intended that the general 5-year limitation imposed by §2462 of title 28 shall govern. Under that section, the time is reckoned from the commission of the act giving rise to the liability, and not from the time of imposition of the penalty, and it is applicable to administrative as well as judicial proceedings·

The PCAOB's case against me or Mr. Weinbaum has never been in front of an article III court. Therefore, the SOL applies, and the cases are time barred.

- The PCAOB Claims Applicants are not likely to succeed-

  My case has merit as I did not prepare, sign-off or review any documents in MJF's audit binders. Under PCAOB rules, if a work paper is not in the audit binder or not signed off, it is presumed not to exist. The emails which the PCAOB used to support its case of "participating in audits" are few and not part of any audit binder. In addition, I had no access to any audit binder. Weinbaum, was the engagement partner on all the clients. Weinbaum signed off on the audit reports as the partner and was not influenced by me or any other person.

  In addition, I received no compensation from MJF from any issuer client during the bar period. The PCAOB looked at MJF's bank statements and related financial analysis and found no evidence I received anything.

- The PCAOB Claims Applicant will not suffer irreparable injury- The PCAOB already informed the California State Board of Accountancy (CBA) about its Order 105-2019-007. CBA piggybacks on PCAOB's order and imposes sanctions because of which I will not be able to practice public accounting for the rest of my life thus depriving me of my livelihood. The CBA has not reacted yet as it waits for the final disposition of the PCAOB's order and result of my Appeal to the SEC. If the PCAOB counsels are disbarred, won't they suffer

irreparable harm? The PCAOB claims lifting the stay will cause me no "irreparable injury" is merit less!

Will the PCAOB also claim a CPA's practice bar is no "irreparable injury"? If so, why have a practice bar? The PCAOB quotes Davis Accountancy Group's case, which is irrelevant as the Davis Group had already lost its license to practice and Davis was convicted in a state court on two counts of professional misconduct for practicing without a license.

- The PCAOB claims the stay is harming the public. By the PCAOB's own admission 97% of US market cap is audited by the Big 4 firms; the next 10 largest firms audit approximately 1.5% of US market cap and the remaining 2,000 or so firms audit approximately 1.5% of US market cap. Therefore, one firm out of 2,000 firms can't measurably harm any investor. The PCAOB claims investors in a small issuer are deprived of protection from PCAOB Standards. Small investors also invest in the issuers which make up 98.5% of market cap audited by the big 4 and the next 10 larger firms. One percent is still 1% not 99%. Therefore, small investors can't be materially harmed by me or Mr. Weinbaum. We and other 2,000 or so CPA firms audit only 1.5% of the US market cap. Justice Gorsuch commented in the Michelle Cochran case," No harm no foul." The PCAOB was supposedly created to prevent "big" accounting disasters. There is nothing big here. I believe I am a first line of defense to protect the investors from issuers filing misleading financial statements because I have the knowledge and experience to audit public companies. The last PCAOB inspection report I received was a clean report for the inspection of MJF& Associates audit practice for 2015. The PCAOB inspection team selected two issuer clients of MJF & Associates in both of which I was the engagement partner and the PCAOB inspection team issued a clean report. Please see copy of PCAOB's inspection report on MJF attached.
- The PCAOB questions whether a stay will serve the public interest. Please see response in bullet point above. The PCAOB admitted it looked at nine of MJF's audits and found no problems.

- PCAOB used the word "recidivist" for me. The PCAOB did not call Christopher Andersen of Deloitte & Touche a recidivist even though Andersen's actions were more egregious than anything I am accused of. Perhaps, there is an element of racism here. The PCAOB has been accused of racism before. That the PCAOB talked about racism in its Brief and Motion may indicate a guilt of being so.

I ask the SEC to reverse the PCAOB action in its Order No. 105-2019-2023 dated December 20, 2023 and dismiss this case for the following reasons:

- I had no access to the any binder; I did not review and sign-off any work paper inside any audit binder. Therefore, I did not participate in the audit.
- I was not compensated.
- I was not part of the engagement team which approved the issuance of any report.
- The emails on which the PCAOB spent all of its time are not part of the engagement work papers and were not in any audit binder. Therefore, I did not participate in the audit.
- The engagement partner, Mr. Weinbaum signed the audit reports based on his and the engagement teams' work.
- The SOL applies and the PCAOB's order should be dismissed.

Very truly yours,

Ahmed Mohidin

cc: PCAOB with enclosures

CERTIFICATION OF COMPLIANCE WITH SEC RULE 151

I, Ahmed Mohidin, certify that I have complied with Rule 151 of the Commission's Rules of Practice by filing my Brief in support of Application for commission review for action taken by the Public Company Oversight Board's (PCAOB) December 20, 2023 Order, which omits or redacts any sensitive personal information described in Rule of Practice 151(e).

[redacted]

CERTIFICATION OF COMPLIANCE WITH SEC RULE 154(c)

I, Ahmed Mohidin, certify that the foregoing Brief In Support of my Application for commission review of action taken by the Public Company Oversight Board (PCAOB) December 20, 2023 Order complies with the word count limitations set forth in Rule 154(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.154(c), and that the foregoing response has 2,190 words, exclusive of pages containing the attachment, as counted by the Word Count feature of Microsoft's Word word-processing program used to prepare the response.

CERTIFICATE OF SERVICE

I, Ahmed Mohidin, certify that on April 18, 2024, I caused a copy of my brief in support of my Application for commission review of Disciplinary Action Taken By the PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD to be served through the SEC's eFap system on:

Vanessa A. Countryman
The Office of the Secretary
U.S. Securities and Exchange Commission
100 F St., NE
Room 10915
Washington, DC 20549-1090

I further certify that, on this date, I caused a copy of my application for commission review of action taken by the Public Company Oversight Board's (PCAOB) December 20, 2023 Order in the foregoing matter to be served by electronic service on:

Public Company Accounting Oversight Board
Office of the Secretary
1666 K Street, N.W.
Washington, D.C. 20006

And

Jerome P. Sisul
Associated General Counsel

[redacted]