

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76734 / December 22, 2015

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3729 / December 22, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-17018

In the Matter of

SPICER JEFFRIES LLP,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 4C OF THE
SECURITIES EXCHANGE ACT OF 1934
AND RULE 102(e) OF THE
COMMISSION'S RULES OF PRACTICE,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative proceedings be, and hereby are, instituted against Spicer Jeffries LLP (“Spicer Jeffries” or “Respondent”) pursuant to Section 4C¹ of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.²

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others . . . (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

² Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found . . . to have engaged in unethical or improper professional conduct.

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Public Administrative Proceedings Pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

A. SUMMARY

These proceedings arise out of Spicer Jeffries’ failure to retain audit documentation, as required by Generally Accepted Auditing Standards (“GAAS”). Spicer Jeffries was unable to locate audit documentation for six (6) of its audit engagements for the years 2009 through 2013. Spicer Jeffries did not have written policies and procedures outlining the practices followed for retention of audit documentation. The affected clients are registered broker-dealers who were required by Section 17(e)(1)(A) of the Exchange Act and Rules 17a-5(d)(1)(i) and 17a-5(g)(1)³ thereunder to file annual financial reports that are audited by an independent public accountant pursuant to GAAS. GAAS required that audit documentation for such annual audits be retained for a period of at least five years from the report release date.⁴ Spicer Jeffries’ failure to retain audit documentation

³ The provisions of Exchange Act Rule 17a-5 referred to herein are those in effect during, and applicable to, the relevant conduct. On July 30, 2013, the Commission adopted certain amendments to Rule 17a-5. *See* Broker-Dealer Reports, SEC Exchange Act Release No. 34-70073 (July 30, 2013), 78 Fed. Reg. 51910 (Aug. 21, 2013). Among other things, the amendments to Rule 17a-5 require that audits of brokers and dealers be performed in accordance with Public Company Accounting Oversight Board standards, effective for audits of fiscal years ending on or after June 1, 2014.

Prior to the July 30, 2013 amendments, Rule 17a-5 required that audits of brokers or dealers be performed in accordance with auditing standards generally accepted in the United States of America, established by the American Institute of Certified Public Accountants (“AICPA”). *See* SEC Exchange Act Release No. 34-62991 (Sept. 24, 2010), 75 Fed. Reg. 60616 (Oct. 1, 2010) (clarifying that references in Commission rules and staff guidance and in the federal securities laws to GAAS or to specific standards under GAAS, as they relate to non-issuer brokers or dealers, should continue to be understood to mean auditing standards generally accepted in the United States of America, established by the AICPA).

⁴ *See* AU-C Section 230.17, *Audit Documentation*, (effective for audits of financial statements for periods ending on or after December 15, 2012); AU Section 339.32, *Audit Documentation* (effective for

in accordance with GAAS for six (6) audits for the years 2009 through 2013 of registered broker-dealers constitutes improper professional conduct.

B. RESPONDENT

Spicer Jeffries LLP is an accounting and auditing firm registered with the Public Company Accounting Oversight Board (“PCAOB”). Spicer Jeffries is based in Denver, Colorado and recently opened offices in Florida and the Cayman Islands. During fiscal years 2009 through 2013 (the “Relevant Period”), Spicer Jeffries had two partners and approximately twenty-nine professional staff.

C. FACTS

1. Background

a. During the Relevant Period, Spicer Jeffries issued approximately 350 audit reports for broker-dealers registered with the Commission. For the year ended 2013, Spicer Jeffries completed 74 audits of broker-dealers.

b. During the Relevant Period, broker-dealers were required to annually file with the Commission financial reports audited by an independent public accountant in accordance with GAAS. During the Relevant Period, GAAS required that the independent public accountant retain audit documentation for a period of at least five years from the report release date.

c. Applicable GAAS standards state that an auditor “should adopt reasonable procedures to retain and access audit documentation for a period of time sufficient to meet the needs of his or her practice and to satisfy any applicable legal or regulatory requirements for records retention.”⁵

d. Spicer Jeffries was managed by two partners, a majority partner and a minority partner. The majority partner relied solely on the minority partner to ensure compliance with professional standards and other requirements related to audit documentation retention. The minority partner was responsible for overseeing the policies and procedures related to retention of audit documentation, but the policies, procedures, and oversight were inadequate to reasonably assure compliance with GAAS.

e. Spicer Jeffries’ written policy regarding audit documentation retention stated that audit documentation was to be retained for a period of six years after the balance sheet date. Spicer

audits of financial statements for periods ending on or after December 15, 2006 and prior to December 15, 2012). PCAOB standards require a seven-year retention period. *See* PCAOB Auditing Standard No. 3, *Audit Documentation*, paragraph 14.

⁵ *See AU Section 339.32 Audit Documentation; AU-C Section 230, Appendix A, paragraph .A27, Audit Documentation.*

Jeffries' administrative staff followed certain practices to retain audit documentation for this period. The firm did not, however, have written procedures outlining these practices. The firm's management did not regularly review administrative staff's practices to ensure the administrative staff reasonably followed those practices.

f. Spicer Jeffries maintained on-site file storage for audit documentation that was less than one year old. Spicer Jeffries allowed all personnel to access the on-site file storage. The firm maintained a system to record the names and dates of individuals who removed audit documentation and the names and dates such documentation was returned to the on-site file storage. Although the system was in place, the records were not regularly verified, and certain records were incomplete.

g. Spicer Jeffries generally archived audit documentation older than one year at an off-site facility. During the Relevant Period, Spicer Jeffries maintained a master archive list to document the location of archived audit documentation. The master archive list contained inaccuracies during the Relevant Period.

h. At the end of 2013, the minority partner retired from Spicer Jeffries, and the administrative staff continued to carry out the existing audit documentation retention practices. From January 1, 2014 until January 1, 2015, no other partner assumed responsibility of audit documentation retention practices, although the firm's partners were available to the administrative staff if they had questions.

Failure to Retain Audit Documentation

i. In response to requests for documents issued by the Commission, Spicer Jeffries was unable to locate audit documentation for six audit engagements of registered broker-dealers during the Relevant Period.⁶

Remedial Efforts

j. In 2015, a new partner took over direct responsibility for audit documentation retention. Spicer Jeffries took steps to review and analyze its audit documentation retention practices and developed new written policies and procedures regarding audit documentation retention. Spicer Jeffries will hire an independent consultant at its own expense to evaluate its audit documentation retention policies and procedures.

⁶ Spicer Jeffries acknowledged during the investigation that out of 113 audit files for which information was requested, it failed to retain documentation for six of those audit engagements.

2. Violations

a. Section 4C of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice allow the Commission to censure a person if it finds that such person has engaged in "improper professional conduct." Exchange Act § 4C(a)(2); Rule 102(e)(1)(ii). Section 4C and Rule 102(e) define improper professional conduct, in part, as "[r]epeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission." Exchange Act § 4C(b)(2)(B); Rule 102(e)(1)(iv)(B)(2). As a result of the conduct described above, Spicer Jeffries engaged in repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards that indicate a lack of competence to practice before the Commission.

3. Findings

a. Based on the foregoing, the Commission finds that Spicer Jeffries engaged in improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

4. Remedial Efforts

In determining whether to accept the Offer, the Commission considered remedial acts undertaken by Respondent.

Undertakings

Respondent undertakes to:

1. Retain, within sixty (60) days after the entry of this Order, at its own expense, an independent consultant ("Independent Consultant") not unacceptable to the staff of the Commission, to review and evaluate whether Spicer Jeffries' audit documentation retention policies and procedures are designed and implemented in a manner reasonably sufficient under PCAOB standards and applicable Commission rules to retain all audit documentation in accordance with applicable professional standards. Spicer Jeffries shall cooperate fully with the Independent Consultant and shall provide the Independent Consultant with access to its own files, books, records, and personnel as reasonably requested for the review;

2. Require that the Independent Consultant issue a report, within sixty (60) days of being retained, summarizing the review and recommending additional or revised audit documentation retention policies and procedures necessary to provide reasonable assurance of compliance with PCAOB standards and applicable Commission rules pertaining to the retention of audit documentation.

3. Adopt all recommendations in the report of the Independent Consultant; provided, however, that within thirty (30) days after the Independent Consultant serves that report, Spicer Jeffries shall in writing advise the Independent Consultant and the Commission of any

recommendations that it considers to be unnecessary, unduly burdensome, impractical, or costly. With respect to any recommendation that Spicer Jeffries considers unnecessary, unduly burdensome, impractical or costly, Spicer Jeffries need not adopt that recommendation at that time but shall propose in writing an alternative policy, procedure, or system designed to achieve the same objective or purpose. As to any recommendation on which Spicer Jeffries and the Independent Consultant do not agree, such parties shall attempt in good faith to reach an agreement within thirty (30) days after Spicer Jeffries serves the written advice. In the event Spicer Jeffries and the Independent Consultant are unable to agree on an alternative proposal, Spicer Jeffries will abide by the determinations of the Independent Consultant;

4. Require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Spicer Jeffries, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Salt Lake Regional Office, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Spicer Jeffries, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

5. Certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Richard R. Best, Regional Director, Division of Enforcement, U.S. Securities and Exchange Commission, 351 So. West Temple, Suite 6.100, Salt Lake City, UT 84101 with a copy to the office of Chief Counsel of the Enforcement Division, 100 F Street, N.E., Washington, DC 20549-6553, no later than sixty (60) days from the date of the completion of the undertakings.

6. In determining whether to accept the Offer, the Commission has considered these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Spicer Jeffries' Offer.

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

A. Respondent is censured.

By the Commission.

Brent J. Fields
Secretary