

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 her and the subject matter of these proceedings, and the findings contained in Section III.3 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to 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:

1. Messenbaugh, age 51, is and has been a certified public accountant licensed to practice in the State of Washington. She served as Chief Accounting Officer and Vice President of Finance and Accounting of SMF Energy Corp. (“SMF”) from approximately 2007 until at least March 2012.

2. SMF was, at all relevant times, a publicly-held Delaware corporation, headquartered in Fort Lauderdale, Florida, whose primary businesses were commercial mobile-fueling and lubricant distribution. At all relevant times, SMF’s common stock was registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 (“Exchange Act”) and traded on the NASDAQ under the symbol “FUEL”.

3. On April 6, 2016, by consent, a Final Judgment was entered against Messenbaugh, permanently enjoining her from future violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”) and Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1, and 13b2-2 thereunder; and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, in the civil action entitled Securities and Exchange Commission v. Laura P. Messenbaugh, et al., Civil Action Number 15-62028-CIV in the United States District Court for the Southern District of Florida. Messenbaugh was also barred from serving as an officer or director; ordered to pay disgorgement of \$11,010 and \$1,408 of prejudgment interest thereon; and ordered to pay a \$60,000 civil money penalty.

4. The Commission’s complaint alleged, among other things, that Messenbaugh, and the other defendants, participated in a fraudulent billing scheme involving SMF. The Commission further alleged that from approximately June 2010 through mid-March 2012 this scheme misled investors by materially overstating SMF’s financial performance and falsely attributing SMF’s purported improved financial results to legitimate business factors, while not disclosing that in reality the purported improvement in its financial results was due to the fraudulent billing scheme. Additionally, the Commission alleged that this scheme caused SMF to

provide financial statements to the investing public that were not in compliance with Generally Accepted Accounting Principles, and that Messenbaugh and other provided false information to SMF's independent auditors.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Messenbaugh's Offer.

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

Messenbaugh is suspended from appearing or practicing before the Commission as an accountant.

By the Commission.

Brent J. Fields
Secretary