

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 77745 / April 29, 2016

INVESTMENT ADVISERS ACT OF 1940

Release No. 4380 / April 29, 2016

ACCOUNTING AND AUDITING ENFORCEMENT

Release No. 3772 / April 29, 2016

ADMINISTRATIVE PROCEEDING

File No. 3-17238

In the Matter of

**SANTOS, POSTAL &
COMPANY, P.C. and
JOSEPH A. SCOLARO, CPA,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 4C OF THE
SECURITIES EXCHANGE ACT OF
1934, SECTION 203(k) OF THE
INVESTMENT ADVISERS ACT OF
1940, AND RULE 102(e) OF THE
COMMISSION'S RULES OF
PRACTICE, MAKING FINDINGS,
AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-
DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 4C¹ of the Securities Exchange Act of 1934 (“Exchange Act”), Section 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), and Rule 102(e)(1) of the Commission’s Rules of

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.

Practice,² against Santos, Postal & Company, P.C. (“SPC”) and Joseph A. Scolaro, CPA (“Scolaro” and collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V as to Respondent Scolaro, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 4C of the Securities Exchange Act of 1934, Section 203(k) of the Investment Advisers Act of 1940, and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds³ that:

Summary

This matter involves repeated failures by SPC, an accounting firm, and Joseph A. Scolaro, an SPC partner, in connection with SPC’s examinations of client funds and securities of which a registered investment adviser has custody (the “Examinations”) pursuant to Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder (the “Custody Rule”).⁴ In particular, Respondents engaged in improper professional conduct under Section 4C of the Exchange Act and Rule 102(e)(1)(ii) and (iii) of the Commission’s Rules of Practice when completing their 2010 and 2011 Examinations. In addition, Respondents twice filed reports on Forms ADV-E that contained untrue statements of material facts regarding the Examinations, thereby violating Section 207 of the Advisers Act.

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

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct; or to have willfully violated . . . any provision of the Federal securities laws or the rules and regulations thereunder.

³ The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

⁴ Rule 206(4)-2 was amended on December 30, 2009, effective March 12, 2010. *See Custody of Funds or Securities of Clients by Investment Advisers*, Advisers Act Rel. No. 2968 (Dec. 30, 2009). The relevant conduct described herein occurred after this amendment.

Respondents

1. **Santos, Postal & Company, P.C. (“SPC”)** is a Rockville, Maryland based certified public accounting and management consulting firm established in 1971 that has approximately 40 professional staff, including five partners. SPC primarily provides accounting, tax and auditing services to individuals and private entities and has been registered with the Public Company Accounting Oversight Board since 2010. Other than SFX, SPC did not provide services to any SEC-registered clients. SPC has never been subject to any disciplinary or regulatory proceedings.

2. **Joseph A. Scolaro (“Scolaro”)**, age 52, resides in Highland, Maryland. Scolaro has been a certified public accountant licensed in Maryland since 1989. During the relevant period, Scolaro owned 25% of SPC and has been an SPC partner since 2004. Scolaro was the only engagement partner for services provided to SFX. Scolaro has never been subject to any disciplinary or regulatory proceedings.

Other Relevant Entities

3. **SFX Financial Advisory Management Enterprises, Inc. (“SFX”)** is a Delaware corporation organized on March 25, 1992, and headquartered in Washington, D.C. SFX became registered with the Commission as an investment adviser on September 21, 1992, but withdrew its registration on September 12, 2012 due to its failure to maintain eligibility for registration based on the amount of assets under management. SFX is currently registered in the District of Columbia. Live Nation Worldwide, Inc., which is owned by Live Nation Entertainment, Inc. (“Live Nation”) (NYSE: LYV), wholly-owns SFX. SFX assesses its clients fixed fees and fees based on assets under management. In its most-recent Form ADV filing in March 2015, SFX disclosed that it managed \$14 million on a discretionary basis. On June 15, 2015, the Commission issued an order finding (among other things) that SFX willfully violated Sections 206(2) and 206(4) of the Advisers Act and Rules 206(4)-2 and 206(4)-7 thereunder, and failed to supervise Brian J. Ourand within the meaning of Section 203(e)(6) of the Advisers Act. *See SFX Financial Advisory Enterprises, Inc., et al.*, Advisers Act Rel. No. 4116 (June 15, 2015).

4. **Brian J. Ourand (“Ourand”)**, age 53, is a resident of Chicago, Illinois. In 1986, Ourand began working at Professional Services Inc., which SFX acquired in 1999. From June 2003 to March 2007, Ourand served as SFX’s Vice President. Ourand served as SFX’s President from March 2007 through August 2011. In August 2011, SFX terminated Ourand for misappropriating client funds. On June 15, 2015, the Commission instituted an administrative and cease-and-desist proceeding against Ourand alleging violations of Sections 206(1) and 206(2) of the Advisers Act. *See Brian J. Ourand*, Advisers Act Rel. No. 4115 (June 15, 2015).

Background

5. SFX specializes in providing advisory and financial management services to high net-worth individuals. Clients entered into agreements with SFX to receive, among other services, investment advisory and bill-paying services. SFX had the power to withdraw from and deposit client assets to both bank and brokerage accounts as part of its bill paying authority.

Consequently, SFX had custody over client assets.⁵ In particular, at least two individuals at SFX had the authority to withdraw money from client accounts, including Ourand. Ourand was also identified in SFX's Form ADV as a control person.

6. In 2004, SFX first engaged SPC to perform Examinations. SPC continued to conduct those Examinations until SFX withdrew its Commission registration in 2012.

7. From 2006 through 2011, Ourand misappropriated funds from client accounts. During this time, Ourand wrote unauthorized checks from client bank accounts payable to "cash" or himself, and wired unauthorized amounts to himself for his own personal use. He also wired money using client credit cards for unauthorized amounts to others for their personal use.

8. In October 2011, SFX informed Scolaro that Ourand had been terminated for misappropriating client funds and that SFX had reimbursed the affected clients.

SPC's Engagement and Examination Reports

9. From 2010 to 2011, SPC completed three reports for SFX, which were filed with the Commission on Forms ADV-E. In connection with its 2010 Examination, SPC completed two reports filed on Forms ADV-E: on November 22, 2010, SPC filed a Form ADV-E with the results of its 2010 Examination (the "2010 Report"), and on March 1, 2011, SPC filed a revised report (the "2010 Revised Report"). In connection with its 2011 Examination, SPC completed a report filed with the Commission on Form ADV-E on February 8, 2012 (the "2011 Report").

10. In the 2010 Report, SPC stated that it had "examined . . . management's assertion . . . that SFX . . . complied with certain provisions of rules 204-2(b) and 206(4)-2 of the Investment Advisers Act . . ." SPC further stated that "Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants . . ." and then enumerated various tests SPC purportedly performed. SPC also stated that "We believe that our examination provides a reasonable basis for our opinion . . . In our opinion . . . Management's assertion that SFX . . . complied with the requirements of subparagraphs (1), (2), (3) and (4) of Rule 206(4)-2(a) . . . is fairly stated in all material respects." The 2010 Revised Report and 2011 Report contained similar language. Scolaro signed each report on SPC's behalf.

11. Two of SPC's reports regarding its Examinations of SFX contained untrue statements of material facts. First, the 2010 Revised Report represented that SPC had confirmed with SFX's clients contributions to and withdrawals from client accounts, when it had not. The 2010 Revised Report also falsely stated that all of the testing procedures were performed for the period ended November 11, 2010, when they were actually performed for the period ended July 31, 2010 (over three months earlier). Second, the 2011 Report included SPC's unqualified opinion that management's assertion that SFX complied with the requirements of Advisers Act Rule 206(4)-2(a)(1) as of May 31, 2011, relating to a qualified custodian maintaining client funds and securities, was fairly stated, in all material respects. Before filing the 2011 Report,

⁵ Under Advisers Act Rule 206(4)-2(d)(2)(ii), an adviser has custody if it has the authority to withdraw client assets maintained with a qualified custodian upon the adviser's instruction to the custodian.

however, SPC and Scolaro knew that Ourand had misappropriated client funds. In light of the misappropriation, all client funds were not maintained with a qualified custodian as of May 31, 2011.

SPC and Scolaro Engaged in Improper Professional Conduct in Performing the Examinations of the Adviser

12. Scolaro's conduct in performing SFX's 2010 through 2011 Examinations violated the professional standards for certified public accountants set forth in American Institute of Certified Public Accountants' ("AICPA") standards for attest engagements (AT § 101) and compliance attestation (AT § 601).

Failure to Exercise Due Professional Care and Professional Skepticism

13. AT § 101.39 provides that "[t]he fifth general standard is – *The practitioner must exercise due professional care in the planning and performance of the engagement and the preparation of the report.*" AT § 101.40 provides that "Due professional care imposes a responsibility on each practitioner involved with the engagement to observe each of the attestation standards." AT § 601.38 provides that "[t]he practitioner should exercise (a) due care in planning, performing, and evaluating the results of his or her examination procedures and (b) the proper degree of professional skepticism to achieve reasonable assurance that material noncompliance will be detected." As a result of the failures described herein, for the 2010 and 2011 Examinations, Scolaro did not exercise due professional care or the proper degree of professional skepticism in the planning and performance of the engagements.

14. In planning the 2010 and 2011 Examinations, Scolaro did not adequately consider fraud risk factors related to fraudulent reporting or misappropriation of assets, including (a) deficiencies in the system of internal controls over compliance, (b) ineffective monitoring of management as a result of domination of management by a small group without compensating controls, and (c) significant unusual related party transactions. *See* AT § 601.33 (requiring the consideration of factors similar to those in audit standard AU § 316.85 *Consideration of Fraud in a Financial Statement Audit*). Scolaro failed to identify any specific attestation risks regarding SFX's compliance with the Custody Rule. There were, however, significant risks that Scolaro should have identified. For example, at least two dominant individuals with significant influence had full signatory power of client bank accounts relating to SFX's bill-paying services and there was inadequate segregation of duties within the bill-paying process, thereby creating inherently significant risks of misappropriation from client accounts. Further, Scolaro failed to identify Ourand as a person authorized to disburse funds from client accounts, thereby obstructing his ability to fully assess the risks associated with significant unusual related party transactions. Even after SFX informed SPC in October 2011 that SFX had terminated Ourand for misappropriating client funds, Scolaro did not perform any further assessment of fraud risk factors in conducting the 2011 Examination.

15. For the 2010 and 2011 Examinations, Scolaro did not gain an adequate understanding of SFX's internal controls over compliance as they related to SFX's compliance with the Custody Rule. AT §§ 601.45, 601.46 (providing that an accountant conducting an examination is required to perform procedures sufficient to obtain an adequate understanding of

internal controls over compliance). For example, Scolaro identified only one person at SFX who could authorize payments from or write checks against client accounts – failing to identify Ourand as a person with such authority. Further, Scolaro did not understand that there was inadequate segregation of duties within SFX for disbursements from client accounts, with a single person at SFX being allowed to authorize a transaction, have custody of documents necessary to initiate a transaction (such as blank checks), and record the transaction in the accounting system without compensating controls. Further, Scolaro made no additional effort to understand SFX’s internal controls relating to its compliance with the Custody Rule in connection with its 2011 Examination procedures despite learning, in October 2011, that SFX had terminated Ourand for misappropriating client funds.

16. Another factor to be considered by a practitioner in planning an attest engagement is conditions that may require extension or modification of attest procedures. *See* AT § 101.45. This guidance is supplemented by AT § 101.47, which provides that “. . . as the attest engagement progresses, changed conditions may make it necessary to modify planned procedures.”

17. Scolaro did not document his consideration as to whether the 2011 Examination procedures should be extended or modified after SFX informed Scolaro of Ourand’s misappropriation. Scolaro did not document that the fraud had occurred or perform any additional procedures after learning of Ourand’s misappropriation, including (for example) evaluating the nature and magnitude of the misappropriation, how Ourand stole client funds, or whether the misappropriation should affect the timing and extent of attestation procedures.

Failure to Obtain Sufficient Evidence

18. AT § 101.51 provides that “[t]he second standard of fieldwork is – *The practitioner must obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report.*” AT § 601.48 provides that “The practitioner should apply procedures to provide reasonable assurance of detecting material noncompliance.” As described herein, for the 2010 and 2011 Examinations, Scolaro failed to obtain sufficient evidence to provide a reasonable basis for the conclusions expressed in the examination reports or to provide reasonable assurance of detecting noncompliance because he failed to obtain sufficient evidence through effectively designed sampling plans, independent confirmations with clients, or alternative procedures that provide relevant and reliable evidence.

19. For the 2010 Examination, Scolaro inadequately planned, performed and evaluated samples. *See* AT § 601.48 and AU § 350, *Audit Sampling*. The sufficiency of audit evidence is related to the design and size of an audit sample, among other factors. *See* AU § 350.05. In addition, sample items should be selected in such a way that the sample can be expected to be representative of the population, and all items in the population should have an opportunity to be selected. *See* AU § 350.24. Further, the practitioner should determine which items, if any, should be individually examined and which items, if any, should be subject to sampling. The practitioner should examine those items for which, in his judgment, acceptance of some sampling risk is not justified. *See* AU § 350.21.

20. In 2010, Scolaro used sampling procedures that were inadequate. In particular, when confirmations of account balances were not returned by clients, Scolaro sampled client accounts by selecting a single transaction for the entire period for each client (for a total of 26 sample items) and reviewing supporting documentation. Moreover, the single transaction selected was the first transaction in the account in the calendar year regardless of amount, type (credit or debit) or counterparty. The deficiencies in internal controls over SFX's bill-paying services and the absence of other effective substantive tests to verify account balances directly with clients are factors that should have resulted in larger sample sizes. Further, Scolaro did not separately evaluate or examine the significant unusual checks made to Ourand or to cash, which a proper degree of professional skepticism should have dictated were high risk transactions.

21. AT § 101.72 provides that "[t]he practitioner should not express an unqualified conclusion unless the engagement has been conducted in accordance with the attestation standards. Such standards will not have been complied with if the practitioner has been unable to apply all the procedures that he or she considers necessary in the circumstances." In its 2010 Revised Report, SPC provided an unqualified conclusion that SFX's assertion that it was in compliance with the Custody Rule was fairly stated. Moreover, the unqualified conclusion was supported, in part by falsely stating that SPC had confirmed contributions to and withdrawals from client accounts when, in fact, these procedures were not performed and SPC had not performed adequate alternative procedures to obtain sufficient evidence to provide a reasonable basis for these conclusions.

22. AT § 601.63 provides that an examination report on an entity's assertion about compliance should be modified if there is material noncompliance with specified requirements. Scolaro should have known that Ourand's misappropriation was material to users of the reports. *See* AT § 101.67. Accordingly, Scolaro had a responsibility to disclose in SPC's reports this material noncompliance. The 2011 Report, however, contained an unqualified opinion and made no mention of Ourand's misappropriation.

Failure to Prepare and Maintain Examination Documentation

23. Scolaro failed to prepare and maintain attest documentation sufficient to enable reviewers to understand the nature, timing and extent of attest procedures performed and the information obtained. *See* AT § 101.103. SPC's work papers for its 2010 and 2011 Examinations of SFX did not contain any explanation of why Scolaro used the sampling approach that it did or how such approach provided sufficient evidence. Further, the work papers did not document the existence of Ourand's misappropriation, whether Scolaro obtained information to understand the nature and extent of the fraud, or whether Scolaro considered if examination procedures should be extended or modified after learning of Ourand's misappropriation. As a result, Scolaro failed to adequately document his Examinations of SFX and significant conclusions reached.

Inadequate Training

24. SPC and Scolaro did not assign an engagement team that "[had] adequate technical training and proficiency to perform the attestation engagement." *See* AT § 101.19. *See also* AT § 601.40. Scolaro and the SPC senior accountant assigned to the engagements lacked

adequate knowledge and understanding of the Custody Rule, were not aware that the Examination was to be conducted in accordance with the provisions of AT §§ 101 and 601, and were not familiar with the guidance the Commission issued in 2009. *See Commission Guidance Regarding Independent Public Accountant Engagements Performed Pursuant to Rule 206(4)-2 Under the Investment Advisers Act of 1940*, Advisers Act Rel. No. 2969 (Dec. 30, 2009, effective Mar. 12, 2010).

SPC Engaged in Improper Professional Conduct by Not Adhering to Professional Quality Control Standards

25. AT § 101.17 provides that “a firm of practitioners has a responsibility to adopt a system of quality control in the conduct of a firm’s attest practice.” Although SPC established a system of quality controls, the design and implementation of the firm’s policies and procedures were ineffective, as discussed herein, in providing reasonable assurance that its personnel complied with professional standards and applicable regulatory requirements in conducting the 2010 and 2011 Examinations, or that the reports issued by the firm were appropriate in the circumstances.

26. The AICPA Quality Control Standards (“QC”)⁶ provide that the firm should establish policies and procedures requiring that the engagement partner has the appropriate competence, capabilities, and authority to perform the role. *See QC §10.33b*. The firm should establish policies and procedures to assign appropriate personnel with the necessary competence and capabilities to perform engagements in accordance with professional standards and applicable legal and regulatory requirements. *See QC §10.34a*. SPC maintained a policy wherein a management committee was responsible for ensuring that personnel with the necessary competence and capabilities were assigned to engagements. Nevertheless, SPC assigned the Examinations to Scolaro even though he did not have adequate training and proficiency in Custody Rule compliance requirements or the appropriate competence to perform the engagements. Accordingly, SPC did not properly monitor compliance with procedures designed to ensure that the appropriate personnel with the necessary competence and capabilities were assigned to perform the Examinations.

27. Firms should establish criteria against which engagements should be evaluated to determine whether an engagement quality control review should be performed. *See QC §10.38*. Engagement quality control reviews should be performed before release of the engagement report to evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report. *See QC §10.40 - .41*. While SPC maintained policies regarding the foregoing, these policies did not apply to attestation engagements, such as the SFX Examination, unless unusual circumstances or risks were identified relating to the engagement. SPC did not identify any unusual circumstances or risks relating to the 2010 and 2011 SFX engagements and, consequently, the engagements were not subject to quality control reviews. SPC was negligent in failing to identify unusual circumstances or risks relating to the 2011 engagement because it

⁶ The AICPA Quality Control Standards (SQCS No. 7) were revised effective January 1, 2012 (SQCS No. 8). The revision changed the numbering of some of the standards but did not change or expand SQCS No. 7 in any significant respect. References herein to AICPA Quality Control Standards refer to sections in SQCS No. 8.

was aware of Ourand's misappropriation. SPC's policy was inadequate and not properly implemented given that SPC did not conclude that Ourand's misappropriation constituted an unusual circumstance or risk – thereby not performing a control review – while SPC had direct knowledge of fraud.

28. Firms should establish policies and procedures to provide them with reasonable assurance that appropriate consultation takes place on difficult or contentious issues. *See* QC §10.37. This includes consultations on significant technical, ethical, and other matters. *See* QC §10.A38. The nature and scope of consultations should be documented and agreed upon by both the individual seeking consultation and the individual consulted. *See* QC §10.37c. SPC's policies require documentation of consultations and specify various situations that may require consultations, including situations involving significant issues identified during the client acceptance and continuance process. The discovery of Ourand's misappropriation during SPC's 2011 Examination of SFX was a significant issue, although SPC and Scolaro failed to identify it as such, and no consultations were documented in connection with the 2011 Examination. SPC's policy was not properly implemented given that SPC did not conclude that Ourand's misappropriation was a significant issue – thereby not obtaining a consultation – while it had knowledge of this conduct.

Violations

29. As a result of the conduct described above, SPC and Scolaro willfully⁷ violated Section 207 of the Advisers Act, which makes it “unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein.”

30. As a result of the conduct described above, SPC and Scolaro engaged in improper professional conduct as defined in Section 4C(b) of the Exchange Act and Rule 102(e)(1)(iv) of the Commission's Rules of Practice.

Findings

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

32. Based on the foregoing, the Commission finds that SPC and Scolaro willfully violated Section 207 of the Advisers Act.

⁷ A willful violation of the securities laws means merely “that the person charged with the duty knows what he is doing.” *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor “also be aware that he is violating one of the Rules or Acts.” *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Section 4C of the Exchange Act, Section 203(k) of the Advisers Act, and Rule 102(e)(1)(ii) and (iii) of the Commission's Rules of Practice, it is hereby ORDERED that:

A. Respondents Scolaro and SPC shall cease and desist from committing or causing any violations and any future violations of Section 207 of the Advisers Act.

B. Respondent Scolaro is denied the privilege of appearing or practicing before the Commission as an accountant.

C. After five years from the date of this Order, Respondent Scolaro may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent Scolaro's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or
2. an independent accountant. Such an application must satisfy the Commission that:
 - (a) Respondent Scolaro, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
 - (b) Respondent Scolaro, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in his or the firm's quality control system that would indicate that he will not receive appropriate supervision;
 - (c) Respondent Scolaro has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and
 - (d) Respondent Scolaro acknowledges his responsibility, as long as he appears

or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

D. The Commission will consider an application by Respondent Scolaro to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent Scolaro's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

E. Respondent SPC is denied the privilege of appearing or practicing before the Commission as an accountant.

F. After one year from the date of this Order, Respondent SPC may request that the Commission consider its reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent SPC work in its practice before the Commission will be reviewed either by the independent audit committee of the public company for which it works or in some other acceptable manner, as long as it practices before the Commission in this capacity; and/or
2. an independent accountant. Such an application must satisfy the Commission that:
 - (a) Respondent SPC is registered with the Board in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
 - (b) Respondent SPC hired an independent CPA consultant ("consultant"), who is not unacceptable to the staff of the Commission and is affiliated with a public accounting firm registered with the Board, that has conducted a review of SPC's quality control system and submitted to the staff of the Commission a report that describes the review conducted and procedures performed, and represents that the review did not identify any criticisms of or potential defects in the firm's quality control system that would indicate that any of SPC's employees will not receive appropriate supervision. SPC agrees to require the consultant, if and when retained, to enter into an agreement that provides that for the period of review and for a period of two years from completion of the review, the consultant shall

not enter into any employment, consultant, attorney-client, auditing or other professional relationship with SPC, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the 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 consultant in performance of his/her duties under this Order shall not, without prior written consent of the staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with SPC, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the review and for a period of two years after the review;

- (c) Respondent SPC has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and
- (d) Respondent SPC acknowledges its responsibility, as long as it appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

G. The Commission will consider an application by Respondent SPC to resume appearing or practicing before the Commission provided that its state CPA license is current and it has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent SPC's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

H. Respondent Scolaro shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$15,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Respondent SPC shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$15,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application.

I. Respondent SPC shall, within 30 days of the entry of this Order, pay disgorgement of \$25,800, which represents profits gained as a result of the conduct described herein, and prejudgment interest of \$3,276.76 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section

21F(g)(3). If this payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement and prejudgment interest, plus any additional interest accrued pursuant to SEC Rule of Practice 600, shall be due and payable immediately, without further application.

J. Payments described herein must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying the relevant party as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to C. Dabney O'Riordan, Associate Regional Director, Securities and Exchange Commission, Los Angeles Regional Office, 444 South Flower St., Suite 900, Los Angeles, California 90071.

K. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against any or both of the Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent Scolaro, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent Scolaro under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent Scolaro of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary