

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10718 / October 11, 2019

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4100 / October 11, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19583

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In the Matter of	:	ORDER INSTITUTING PUBLIC
	:	ADMINISTRATIVE PROCEEDINGS
	:	PURSUANT TO RULE 102(e) OF THE
JOHN BUSSHAUS, CPA,	:	COMMISSION’S RULES OF PRACTICE,
	:	MAKING FINDINGS, AND IMPOSING
Respondent.	:	REMEDIAL SANCTIONS
	:	
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I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted against John Busshaus (“Respondent” or “Busshaus”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.¹

¹ Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

II.

In anticipation of the institution of these proceedings, Busshaus 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 him and the subject matter of these proceedings, and the findings contained in Section III.3 below, which are admitted, Busshaus 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. FAB Universal Corp. (“FAB”) was, at all relevant times, a Colorado corporation with its headquarters in Pittsburgh, Pennsylvania. FAB was engaged in the business of marketing and distributing digital entertainment products throughout China, through its Digital Media Services, Retail Media Sales, and Wholesale Media Distribution units. At all relevant times, FAB’s common stock was registered with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934 (“Exchange Act”). Its shares were listed on the NYSE MKT until the NYSE delisted the Company’s shares on December 2, 2014.

2. John Busshaus, age 56, holds an inactive license as a certified public accountant issued by the State of Pennsylvania. He has served as FAB’s Controller from April 2006, and CFO from January 29, 2007. He is also a former broker and holds inactive Series 6, 7, and 63 licenses.

3. On October 8, 2019, a final judgment was entered against Busshaus, permanently enjoining him from future violations of Section 17(a)(2) and (3) of the Securities Act in the civil action entitled *Securities and Exchange Commission v. Christopher J. Spencer, et al.*, Civil Action Number 1:19-cv-09070-NRB in the United States District Court for the Southern District of New York.

4. The Commission’s complaint alleged that between 2012 and 2013, Busshaus, acting negligently, used a series of false and misleading representations about the capabilities and growth prospects of a central component of FAB’s business in China. Busshaus repeatedly represented to FAB’s investors that Intelligent Media Kiosks (“Kiosks”) were a key component of FAB’s business model. In press releases, earnings calls, and FAB’s public reports, Busshaus described the Kiosks as ATM-style terminals where customers could download movies, television shows, music, and other media to their cellphones and other devices. Busshaus described the business model as “iTunes meets Redbox meets Netflix” and made numerous statements about the multi-media functionality, profitability, and growth of the Kiosk

market. In reality, almost all of FAB's Kiosks did not have the claimed media-download functionality, and more than half of the Kiosks did not function at all. Furthermore, public statements reviewed and approved (and in some cases signed and certified) by Busshaus grossly overstated the number of installed Kiosks, thereby misleading investors about their purported revenue-generating ability and prospects. Busshaus received and reviewed information provided by FAB's personnel located in China prior to making these representations. However, Busshaus failed to adequately address numerous red flags arising from the information that he received and thus did not comply with the requisite standard of care before making or approving these and other representations.

IV.

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

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

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

B. After two years from the date of this order, Busshaus 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 (other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934). Such an application must satisfy the Commission that Busshaus'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. 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 as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934. Such an application will be considered on a facts and circumstances basis with respect to such membership, and the applicant's burden of demonstrating good cause for reinstatement will be particularly high given the role of the audit committee in financial and accounting matters; and/or

3. an independent accountant.

Such an application must satisfy the Commission that:

(a) Busshaus, 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) Busshaus, 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 the respondent’s or the firm’s quality control system that would indicate that the respondent will not receive appropriate supervision;

(c) Busshaus 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) Busshaus 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.

C. The Commission will consider an application by Busshaus 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’s character, integrity, professional conduct, or qualifications to appear or practice before the Commission. Whether an application demonstrates good cause will be considered on a facts and circumstances basis with due regard for protecting the integrity of the Commission’s processes.

By the Commission.

Vanessa A. Countryman
Secretary