

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 87812 / December 20, 2019

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4110 / December 20, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-19626

In the Matter of

**QUANTUM
CORPORATION,**

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Quantum Corporation (“Quantum” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“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 Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

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

Summary

1. Quantum is a public data storage company that manufactures and sells hardware to channel partners such as distributors and resellers, as well as to end-user customers. Between the fourth quarter of its 2015 fiscal year (which ended March 31, 2015) and the second quarter of its 2018 fiscal year (which ended September 30, 2017) ("the restatement period"), Quantum recognized revenue from dozens of transactions with channel partners without meeting the necessary revenue recognition criteria under Generally Accepted Accounting Principles ("GAAP"). These errors caused Quantum to materially overstate its revenue for certain reporting periods and to understate its revenue in other periods.

2. Quantum's revenue recognition errors resulted from internal accounting control failures, including insufficient controls to provide reasonable assurance that the relevant accounting personnel had sufficient expertise and knowledge regarding channel partner transactions to make appropriate revenue recognition determinations. In this environment, Quantum's revenue recognition errors continued unchecked for almost three years.

3. In 2019, Quantum disclosed material misstatements in its consolidated financial statements for three annual periods and five quarterly periods and announced a restatement, as well as material weaknesses in its internal control over financial reporting.

Respondent

4. Quantum is a Delaware corporation with its principal executive offices in San Jose, California. Quantum's common stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act. Until January 2019, Quantum's common stock traded on the New York Stock Exchange ("NYSE") under the ticker symbol QTM. Currently, Quantum's common stock trades on the OTC Pink exchange under the ticker symbol QMCO.

Facts

A. Quantum's Business and Historical Revenue Recognition Policy

5. At all relevant times, Quantum's business focused on manufacturing and selling data storage devices and systems, including physical hardware such as disk drives. Quantum works with a network of numerous channel partners, including distributors and value-added resellers. Channel partners purchase hardware from Quantum and then resell the products to end users or other channel partners.

6. Quantum disclosed in its Forms 10-K for fiscal years 2015, 2016, and 2017 that it prepared its financial statements in accordance with GAAP. Under Accounting Standards Codification ("ASC") 605, *Revenue Recognition*, revenue should be recognized only when it is both

earned and realized or realizable. Consistent with GAAP, in its Forms 10-K, Quantum's critical accounting policies explained that the company considered revenue to be earned and realized or realizable when: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or services have been rendered; (3) the seller's price to the buyer is fixed or determinable; and (4) collectability is reasonably assured. As disclosed in its Forms 10-K, Quantum told investors that it generally recognized revenue upon shipment (i.e., on a "sell-in" basis) for hardware products sold to channel partners. Quantum's Forms 10-K also disclosed that when significant post-delivery obligations existed, the related revenue was deferred until such obligations were fulfilled.

B. For Almost Three Years, Quantum Repeatedly Recognized Revenue in Incorrect Periods

7. During the restatement period, Quantum did not design or maintain sufficient internal accounting controls to provide reasonable assurance that the company complied with the revenue recognition criteria under GAAP. In the absence of sufficient controls, Quantum overstated or understated up to approximately 7% of its total quarterly revenue in incorrect periods as a result of (1) certain sales practices of granting favorable deal terms to channel partners that were not properly accounted for at the time of revenue recognition; and (2) bill and hold arrangements. As a result, Quantum materially misstated its financial statements from the fourth quarter of fiscal year 2015 through the second quarter of fiscal year 2018, and failed to make and keep accurate books and records.

Quantum's Sales Practices to Encourage Channel Partners to Buy More Inventory

8. Quantum's revenue recognition issues began in early 2015. By that time, Quantum had experienced waning market demand for certain products, causing its total revenues to shrink from about \$1.01 billion in fiscal year 2007 to about \$553 million in fiscal year 2014. In 2014, an activist investor approached Quantum regarding its performance and entered into a standstill agreement with the company. Among other things, the standstill agreement set forth business objectives (including revenue targets) that Quantum needed to hit in its 2015 fiscal year. If Quantum missed the targets, the activist investor would gain two additional seats on Quantum's board of directors.

9. In response, Quantum made a business decision to rely more heavily on two pre-existing sales practices to help the company achieve the revenue targets in the standstill agreement. First, Quantum increasingly encouraged channel partners to place "stocking orders." The general purpose of "stocking orders" was to enable channel partners to build up inventory of new Quantum products that they would resell in later periods to satisfy expected future end user demand. Second, Quantum encouraged channel partners to "pre-buy" products for specific, already-identified deals that were expected to close in later periods but had not yet been ordered by end users. Quantum's management did not, however, sufficiently consider the risks presented by these types of transactions, including whether their increased use may have warranted additional consideration of whether Quantum's existing internal accounting controls were sufficient.

10. In fact, unbeknownst to management, sales personnel regularly added deal terms to stocking orders and pre-buys that undermined the company's revenue recognition under ASC 605. However, Quantum's lower-level accounting personnel responsible for making revenue recognition determinations lacked both appropriate accounting expertise and relevant information from sales personnel regarding channel partner transactions. In many instances, the existence of additional deal terms was not communicated to the accounting personnel. In the absence of sufficient internal accounting controls around revenue recognition, Quantum prematurely recorded revenue for many stocking orders and pre-buys with such deal terms, as set forth below.

Guaranteed Profit Margins and Extra Return Rights

11. Quantum prematurely recognized revenue from channel partner transactions where the pricing was not fixed or determinable. For example, in connection with certain transactions, Quantum agreed to provide channel partners with guaranteed profit margins. For these deals, Quantum's ultimate price to the relevant channel partners was not fixed or determinable because the guaranteed profit margins caused the ultimate payment from the channel partner to be contingent on the subsequent resale price of the product to the end user, which at times was lower than anticipated.

12. Quantum also allowed certain channel partners to return previously purchased inventory beyond the return rights specified in the original contractual agreements. In its Forms 10-K for the restatement period, Quantum told investors that it recognized hardware revenue upon shipment and, for deals involving future product returns, recorded an allowance for estimated future price adjustments in the period revenue was recognized. However, Quantum could not reasonably estimate future price adjustments in deals involving extra-contractual return rights, so its ultimate price on the transactions was not fixed or determinable at the time of shipment.

Post-Delivery Obligations

13. Quantum also prematurely recognized revenue for certain transactions because it continued to have significant post-delivery obligations after products had been shipped to channel partners. Because Quantum had not substantially accomplished all it must do to earn the revenue, Quantum should have deferred revenue until it had fulfilled its post-delivery obligations.

14. Among other post-delivery obligations, in connection with certain transactions, Quantum arranged for the shipment of channel partners' orders to third party warehouses, paid for channel partners' storage costs, relabeled products for the benefit of channel partners, and/or paid for shipping and insurance to end users. Quantum also had continuing involvement in channel partners' resale efforts after deals had ostensibly closed, including arranging for certain partners to purchase stale inventory from other partners and facilitating pricing for such partner-to-partner deals. For transactions involving such obligations, revenue should not have been recognized at the time of shipment.

Transactions Did Not Meet Bill and Hold Criteria

15. Separate from certain stocking orders and pre-buys, Quantum also determined that it had not recognized revenue consistently with GAAP and its own accounting policies for bill and hold arrangements. In bill and hold arrangements, the buyer is billed for products ready for delivery, but the seller retains possession until the buyer requests delivery at a later date. Quantum determined that it should not have recognized revenue at the time of sale because Quantum—not the buyer—requested the bill and hold arrangements, and certain transactions required specific performance obligations from Quantum after shipment in order to sell the products to end users.

C. Quantum's Deficient Controls

16. Quantum's revenue recognition issues stemmed from a failure to design and maintain internal accounting controls sufficient to provide reasonable assurance that its financial statements were presented in accordance with GAAP. Quantum accounting personnel did not have the necessary expertise or knowledge to reach the appropriate accounting treatment for certain transactions with channel partners.

17. During the restatement period, Quantum's tone-at-the-top contributed to its insufficient internal accounting controls environment. While management encouraged sales personnel to pursue stocking orders and pre-buys, Quantum did not sufficiently consider the risks presented by these transactions, including whether these transactions may have required them to design any additional internal accounting controls.

18. Personnel within Quantum's sales, accounting, and other departments at times lacked knowledge, experience, and training regarding channel partner arrangements and relationships and proper application of revenue recognition. Contributing to this issue, Quantum's accounting department experienced significant turnover during the relevant period. Key accounting personnel lacked knowledge of the details and scope of Quantum's overall business practices with channel partners, which limited their ability to appropriately recognize revenue for certain transactions.

19. In addition, Quantum's sales teams did not communicate material terms of arrangements with channel partners to the relevant accounting personnel. Instead, personnel outside the accounting department had discretion for escalating deals that may have had revenue recognition implications to the appropriate accounting personnel. However, sales personnel became accustomed to offering additional deal terms without adequate policies or procedures requiring that they disclose these terms to the relevant accounting personnel. Due to a lack of clear reporting structures and responsibilities, accounting personnel were ultimately left unaware of critical information about certain deals necessary to properly recognize revenue in accordance with GAAP.

20. Finally, Quantum failed to adequately prepare, analyze, and review revenue recognition and other significant account reconciliations. As a result, revenue transactions were recorded prematurely and not in accordance with GAAP during the relevant period.

D. Quantum Restated Three Years of Financial Statements

21. Quantum began an internal investigation into its revenue recognition practices after being contacted by the staff in the Commission's Division of Enforcement. On February 8, 2018, Quantum filed a Form 8-K disclosing that it had postponed its quarterly earnings call to allow its audit committee to complete an investigation into accounting matters and related internal controls. By the close of trading that day, Quantum's stock price had declined by approximately 30 percent. On January 15, 2019, due to Quantum's failure to meet SEC reporting requirements, its stock was delisted from the NYSE.

22. On August 6, 2019, Quantum announced that it had completed its restatement of financial statements for prior periods. Quantum concluded that there were material misstatements in its consolidated financial statements reported on Forms 10-K for the fiscal years ending March 31, 2015, 2016 and 2017, as well as in the unaudited condensed consolidated financial statements reported on Forms 10-Q for the quarters ending June 30, 2016, September 30, 2016, December 31, 2016, June 30, 2017, and September 30, 2017. The restatement revealed that Quantum's revenue, once adjusted for the correct reporting periods, would have missed the objectives set forth in the standstill agreement, as well as the company's public revenue guidance for fiscal year 2017.

23. Quantum also disclosed that it had identified material weaknesses in its internal control over financial reporting, which had contributed to the restatement. Among other things, Quantum identified material weaknesses related to its tone-at-the-top, including a lack of sufficient personnel with appropriate accounting knowledge, a failure to establish clear reporting structures in the organization, and a failure to design effective controls over the period-end financial reporting process. As part of its remediation efforts, Quantum terminated several sales, accounting, and operations personnel and enhanced its policies and procedures regarding revenue recognition, stocking orders, pre-buys, and bill-and-hold transactions.

Violations

24. As a result of the conduct described above, Quantum violated Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, which require every issuer of securities registered pursuant to Section 12 of the Exchange Act to file with the Commission accurate periodic reports, including annual Reports on Form 10-K and quarterly Reports on Form 10-Q.

25. As a result of the conduct described above, Quantum also violated Section 13(b)(2)(A) of the Exchange Act, which requires an issuer to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the issuer's transactions and disposition of assets.

26. As a result of the conduct described above, Quantum also violated Section 13(b)(2)(B) of the Exchange Act, which requires an issuer to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: transactions are executed in accordance with management's general and specific authorization; transactions are

recorded as necessary to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such statements, and to maintain accountability for assets; access to assets is permitted only in accordance with management's general or specific authorization; and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Quantum Corporation's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent shall cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder.

B. Respondent shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$1,000,000.00 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 timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment 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 Quantum Corporation 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 Monique Winkler, Division of Enforcement, Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, CA 94104.

C. 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, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it 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 Respondent 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.

By the Commission.

Vanessa A. Countryman
Secretary