

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 92292 / June 29, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20377

In the Matter of

Harold P. Gewerter, Esq.

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 Harold P. Gewerter, Esq. (“Respondent” or “Gewerter”) pursuant to Section 4C¹ of the Securities Exchange Act of 1934 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 ... (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct ...

² Rule 102(e)(1)(ii) 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 . . . (ii) to be lacking in character or integrity or 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 him, the subject matter of these proceedings, and the findings contained in Sections III.1 and III.2 below, 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. Gewerter, age 68, was admitted to the practice of law in the state of Nevada on September 25, 1979. For many years, Gewerter has operated a law practice that includes representing public companies in securities-related matters, including before the Commission. On October 26, 2020, the Nevada Supreme Court suspended Gewerter from the practice of law for misconduct relating to his attorney trust accounts. *In re Discipline of Gewerter*, No. 80198, 2020 WL 6276350 (table) (Nev. Oct. 26, 2020).

2. From at least 2001 until his recent suspension, Gewerter has owned and operated the law firm Harold P. Gewerter, Esq., Ltd. (“Gewerter Law”). From at least 2007 through early 2017, Gewerter employed as a “paralegal” Shawn Hackman—a disbarred former attorney who was suspended from appearing or practicing before the Commission as an attorney on September 10, 2002.

3. Although Gewerter Law purportedly employed Hackman as a paralegal, Gewerter knowingly permitted Hackman to appear and practice before the Commission as an attorney, in violation of his suspension under Rule 102(e), by allowing him to (i) draft documents, in whole or in part, that were filed with the Commission on behalf of Gewerter Law clients without meaningful oversight by any licensed attorney, and (ii) provide legal advice relating to such documents.

4. Gewerter failed in at least three material respects to make reasonable efforts to prevent Hackman from engaging in the practice of law, which enabled Hackman to assume the representation of Gewerter Law clients before the Commission. First, notwithstanding that Hackman was disbarred by Nevada and Iowa and permanently suspended from practicing before the Commission, Gewerter permitted Hackman to present himself to clients, persons working with the firm (such as co-counsel, opposing counsel, auditors, etc.), and the public as a lawyer who was authorized to practice before the Commission, without taking measures to correct that misimpression or to avoid a recurrence. Clients and other persons with whom Hackman worked repeatedly referred to Hackman as an “attorney” (or similar term, *e.g.* lawyer) in conversations, and in documents sent to Gewerter Law, without correction by Hackman or Gewerter. Further, to conceal that Hackman was providing legal services that he was not legally authorized to perform, Gewerter permitted Hackman to utilize Gewerter’s own email address and electronic signature so

that it would appear Gewerter had performed such services instead of Hackman. Second, Gewerter permitted Hackman to undertake engagements with Gewerter Law clients that would involve practicing before the Commission and to negotiate the fees to be paid to the firm and/or directly to Hackman for such engagements. For his work at Gewerter Law, Gewerter paid Hackman more than \$300,000 in 2015 and more than \$400,000 in 2016, far in excess of the approximately \$40,000 per year he paid the other paralegal who worked at Gewerter Law. There was no reasonable basis, other than Hackman's work as an unlicensed attorney, for this disparity. Third, as described in Paragraph 5 below, Gewerter permitted Hackman to perform legal services for Gewerter Law clients by providing legal advice concerning, and drafting in whole or in part, documents filed with the Commission on behalf of Gewerter Law clients that were not reviewed or approved by Gewerter or any other licensed attorney acting on Gewerter's behalf.

5. From April 2015 through early 2017, Hackman provided legal advice concerning documents filed with the Commission by a number of issuers; he also drafted these filings, in whole or in part, without meaningful review by a licensed attorney. Representative examples include:

- Various filings made by Alpha Energy, Inc., including a Form 8-A filed on February 16, 2016, a Form 10-K filed May 19, 2016, and a Form 10-Q filed May 23, 2016;
- An S-1 filed by Whiskey Acquisition, Inc. on December 18, 2015, and amendments thereto, filed on March 1 and 18, 2016 and April 4, 2016; and,
- An S-1 filed by DAS Acquisition, Inc. on July 21, 2015, and amendments thereto, on September 18, 2015, and November 5 and 10, 2015.

6. Respondent failed to properly supervise Hackman by knowingly allowing him to engage in the unauthorized practice of law and to perform legal work that constituted appearing and practicing before the Commission notwithstanding his disbarment and SEC suspension. This conduct also reflected "dishonesty" and "deceit" within the meaning of the Nevada Rules of Professional Conduct, by allowing Hackman to create the false impression that he was legally authorized to perform such work. Respondent has thus engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice, in that Respondent violated:

- (1) Nevada Rule of Professional Conduct 5.3, which provides that "With respect to a nonlawyer employed or retained by or associated with a lawyer: (a) A partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer; (b) A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer";

- (2) Nevada Rule of Professional Conduct 5.5(a), which provides that “A lawyer shall not * * * (2) Assist another person in the unauthorized practice of law”; and
- (3) Nevada Rule of Professional Conduct 8.4(c), which provides that a lawyer shall not “Engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanction agreed to in Respondent Gewerter’s Offer.

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

Gewerter is denied the privilege of appearing or practicing before the Commission.

By the Commission.

Vanessa A. Countryman
Secretary