UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18292

In the Matter of **Anton & Chia, LLP,** **Gregory A. Wahl, CPA,** **Michael Deutchman, CPA,** **Georgia Chung, CPA, and** **Tommy Shek, CPA,** **Respondents.**

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THE DIVISION OF ENFORCEMENT'S POST-HEARING BRIEF

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PRELIMINARY STATEMENT

"Push it through so we can get paid. [C]an't win them all."[1]

This was an instruction from Respondent Gregory Wahl about a quarterly review that his auditing firm, Anton & Chia, LLP, performed for Accelera Innovations, Inc. But it could have related to any of the engagements at issue in this matter. Instead of doing the work and following the rules, the Respondents provided rubber-stamp audits and reviews of misstated financial statements, in what amounted to a veritable audit opinion mill. And they didn't do it once, they did it over and over again – over the course of three years, twelve engagements, and three different issuer clients.

After six hearing weeks, the Division of Enforcement has established serial violations of the federal securities laws and improper professional conduct by Anton & Chia;[2] its managing partner, Wahl; its co-owner, Georgia Chung; and a former audit partner, Michael Deutchman. The Respondents repeatedly "push[ed] through" audits and reviews of clearly misstated financial statements for three different microcap clients: Accelera, Premier Holding Corporation, and CannaVEST Corp.[3]

First, in eight engagements from 2014 through 2016, Anton & Chia signed off on Accelera's financial statements, despite the fact that Accelera had consolidated the financials of a separate company which it did not own or control, thereby materially inflating its operations and revenue. There was no valid basis to consolidate Behavioral Healthcare Associates, Ltd.

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[1] Division of Enforcement's Proposed Findings of Fact ("Div. Facts") ¶ 209.

[2] On September 20, 2019, Anton & Chia settled these claims without admitting or denying the Commission's expected findings. Exchange Act Release No. 87033.

[3] Each of the three issuers was charged with, among other things, securities fraud for the same disclosure violations at issue in this matter. *See SEC v. Accelera Innovations, Inc.,* (17-cv-7052) (N.D. Ill., filed Sept. 29, 2017); *SEC v. Premier Holdings Corp.*, 18-cv-00813 (filed S.D.N.Y. Dec. 4, 2017); *SEC v. CannaVEST Corp.*, 17-cv-01681 (D. Nev., filed June 15, 2017).

("BHCA") into Accelera's financial statements. The two entities had entered into a purchase agreement, but the agreement clearly stated that ownership would not pass until Accelera paid for BHCA's stock, which it never did. Accelera also did not control the personnel, operations, or finances of BHCA in any way. Yet, Anton & Chia, including Wahl and Deutchman, never questioned Accelera's decision to consolidate.

In fact, the only workpaper throughout all eight engagements that analyzed Accelera's decision to consolidate BHCA was a memo included in the 2013 audit workpapers that Wahl had assigned to a new staff accountant with no audit experience, no business combination accounting experience, who had been hired just a few weeks earlier. The memo was deeply and obviously flawed, and it contained contradictory assertions about the status of the acquisition. But that was all Anton & Chia and Wahl ever did. They never revisited the issue.

In late 2014, when Deutchman joined the Accelera engagement team, he "just assumed" that the accounting for BHCA was correct. Even after Accelera's own CFO warned Deutchman that BHCA was inappropriately consolidated, Deutchman did nothing. He did not revisit the accounting treatment, he did not discuss the issue with the engagement team, he did not even document the CFO's concerns in Anton & Chia's workpapers.

Wahl, and thus Anton & Chia, also deviated from numerous auditing standards in the audit of Premier's 2013 financial statements. Despite their clear materiality and contrary to the audit planning memo, Wahl failed to obtain sufficient audit evidence to support Premier's $869,000 valuation of an unsecured promissory note issued to Premier by WePower Eco Corp. ("Note") and the $4,500,000 in goodwill purportedly arising from Premier's acquisition of an 80% interest in The Power Company ("TPC"). Instead, he relied on initial valuation tables that Premier's independent valuation expert, Doty Scott Enterprises, Inc. ("Doty Scott"), had sent to

Premier to elicit input on the assumptions Doty Scott needed to value the Note. Wahl failed to notice clear signs in those initial valuation tables – which comprised almost the entirety of the primary workpaper on the Note valuation – that the underlying assumptions were for the wrong company and the wrong period. He also failed to notice or to understand the relationship between the $869,000 "Fair Market Value of the Enterprise" and the $698,377 "Fair Value of the Promissory Note," both of which appeared on the first page of that workpaper. Thus, Wahl not only relied on preliminary work by the valuation expert, but on the wrong output of that preliminary work.

Wahl also failed to meet the relevant auditing standards in signing off on Premier's allocation of the entire TPC purchase price to goodwill and its failure to measure that goodwill for impairment. In doing so, he either failed to notice or disregarded Premier's numerous public statements about the identifiable assets – customer contracts – that made the acquisition valuable to the Company. He also failed to notice or disregarded Premier's representations in the audited financial statements that (1) "the initial accounting for the business combination [with TPC was] not complete because the evaluations necessary to assess the fair value of certain net assets and the amount of goodwill [were] still in progress" and (2) that the Company assessed its recorded goodwill for impairment at least annually.

Another glaring example of Wahl's knowing, reckless, and negligent conduct and lack of competence to appear and practice before the Commission is his repeated mishandling of the CannaVEST engagement over three successive financial quarters. CannaVEST, a shell company, acquired of PhytoSphere Systems, LLC in January 2013, for a purported purchase price of $35 million, and reported $35 million in assets from that transaction in its Q1 and Q2 2013 Forms 10-Q. But the fair value of that transaction was never $35 million. CannaVEST could not possibly

pay $35 million in cash for PhytoSphere; CannaVEST's 2012 Form 10-K disclosed the company had no operations, no revenues, and just $431 in total assets. The agreement itself provided that CannaVEST could pay entirely through the issuance of its common stock, using an arbitrary share price "collar" of between $4.50 and $6.00 per share. The collar allowed CannaVEST to cap shareholder dilution; it was never intended to reflect the fair value of its stock. CannaVEST stock had little value, and prior to the acquisition date, not one share of its stock had traded for nearly seven weeks.

The generally accepted accounting standards ("GAAP") applicable to the PhytoSphere transaction, ASC 805 and 820, required Wahl to obtain answers to four simple questions: (1) what is the fair value of the consideration to be paid; (2) what is the fair value of the assets acquired; (3) was it an orderly transaction; and (4) was it a transaction between market participants. The evidence demonstrates that Wahl never asked himself those questions, never asked CannaVEST management any of those questions, and never provided any direction to his novice staff on how to analyze the transaction, or the numerous red flags they encountered. Wahl also never communicated with CannaVEST's prior auditor, as he was required to do, and his failure to properly plan and conduct the first quarter review was exacerbated by his decision to use his wife, respondent Georgia Chung, to act as the engagement quality review partner ("EQR"), a role that she was unqualified to perform, to rubber stamp his work.

In the third quarter, CannaVEST obtained an independent valuation of the PhytoSphere transaction, which concluded that, as of the January 2013 acquisition date, the fair value of the transaction was approximately $8 million. That valuation cried out for a restatement of CannaVEST's first and second quarter financial statements, but Wahl did not even consider whether a restatement was necessary. Instead, Wahl recommended that CannaVEST impair the

entire carrying amount of goodwill associated with the PhytoSphere transaction. It was not until 2014, under the direction of its successor auditors, that CannaVEST finally restated its Q1 through Q3 2013 results.

In summary, the hearing in this matter has produced a mountain of unassailable evidence of GAAP violations unnoticed, shoddy audit work approved, and red flags ignored. In response, all three Respondents have doubled down. They claimed they did nothing wrong. They offered increasingly outrageous, post-hoc interpretations of GAAP and PCAOB standards to defend their conduct. They claimed their misconduct did not really matter, because the issuers were small and not financially viable anyway. They pointed fingers at everyone else – the clients, the issuers, the PCAOB. They even accused the Division of dishonesty. Ironically, it was Wahl himself who falsified evidence in a desperate bid to create favorable expert testimony, and then filed a perjurious declaration when he was caught. In addition, as recently as last year, Wahl continued to perform audit work for at least one public company, Max Sound, even though he had represented to this Court that he no longer did such work. Wahl cannot be trusted to perform public audit work, when he has doctored evidence, deceived his own expert witness, and repeatedly lied to this Court.

For all of these reasons, the Respondents' egregious, repeated misconduct demonstrates that they cannot be trusted to uphold the standards of their profession.

ARGUMENT

The Division has shown, by a preponderance of the evidence, that Wahl, Chung, and Deutchman engaged in improper professional conduct. The Division has shown that Wahl and Deutchman also willfully violated, willfully aided and abetted and/or caused violations of, the federal securities laws by egregiously failing to conduct the audit and review engagements for Accelera and Premier in accordance with PCAOB standards, and by falsely claiming that they

had done so.

I. Wahl, Chung, and Deutchman Engaged in Improper Professional Conduct.

Wahl, Chung, and Deutchman violated multiple PCAOB standards during their audits and/or interim reviews of Accelera, Premier, and CannaVEST. Such violations constitute improper professional conduct under Rule 102(e) when they involve any of the following: (1) intentional or knowing conduct, including reckless conduct (Rule 102(e)(1)(iv)(A)); (2) a single instance of highly unreasonable conduct in circumstances in which heightened scrutiny is warranted (Rule 102(e)(1)(iv)(B)(1)); or (3) repeated instances of unreasonable conduct that indicate a lack of competence to practice before the Commission (Rule 102(e)(1)(iv)(B)(2)).

Recklessness, under 102(e)(1)(iv)(A), "can be established by a showing of an extreme departure from the standard of ordinary care for auditors." *Michael J. Marrie*, Exchange Act Release No. 48246, 2003 WL 21741785, at *7 (July 29, 2003) (Commission opinion), *reversed on other grounds*, *Marrie v. SEC*, 374 F.3d 1196 (D.C. Cir. 2004). "The question is not whether an accountant recklessly intended to aid in the fraud committed by the audit client, but rather whether the accountant recklessly violated applicable professional standards." *Id.* The term "highly unreasonable conduct" under 102(e)(1)(iv)(B)(1) means something more egregious than ordinary negligence but less than recklessness, and it is an objective standard that measures the conduct at issue "by the degree of the departure from professional standards and not the intent of the accountant." *Id.* The term "unreasonable conduct" under Rule 102(e)(1)(iv)(B)(2) means ordinary negligence. *Dohan & Co., CPA*, Initial Decision Release No. 420, 2011 WL 2544473, at *12 (June 27, 2011) (citing amendment to Rule 102(e) of the Commission's Rules of Practices, Release No. 34-40567 (Oct. 26, 1998)). As discussed below, Respondents' multiple violations constitute improper professional conduct under any of these three criteria.

A. Wahl Engaged in Repeated Instances of Knowing, Extremely Reckless and Highly Unreasonable Conduct.

Wahl served as the engagement partner for Accelera's 2013 and 2014 year-end audits and for the 2014 and 2015 interim reviews, Premier's 2013 year-end audit, and CannaVEST's 2013 interim reviews. (Div. Facts ¶ 3.) During each of those engagements, Wahl engaged in recurrent, knowing, reckless, and/or negligent improper professional conduct that demonstrates his lack of competence to appear and practice before the Commission.

1. Accelera-Related Violations of PCAOB Standards

With respect to Accelera, Wahl repeatedly violated PCAOB standards, resulting in Anton & Chia's failure to identify Accelera's improper consolidation of BHCA and resultant gross misstatement of its financials. (Div. Facts ¶¶ 217, 297, 398.) These violations occurred in each of the eight Accelera-related engagements.

Wahl received the stock purchase agreement between Accelera and BHCA (the "SPA"), as well as at least six accompanying agreements. (*Id.* ¶ 236.) The agreements are clear that Accelera would only obtain the stock of BHCA "upon receipt of the payment of the purchase price." (*Id.* ¶¶ 118-20, 126, 128, 131, 133, 136-37.) Wahl was aware that Accelera never made the payment. (*Id.* ¶ 238.) Nevertheless, Wahl failed to identify BHCA as improperly consolidated in any of the eight sets of Accelera's financial statements that he audited and/or reviewed.

For the 2013 audit, Wahl improperly delegated analysis of the consolidation to Yu-Ta Chen, a staff accountant with no auditing experience, no business accounting experience, and no CPA license. Wahl tasked Chen with drafting the sole memo that analyzed Accelera's accounting for the BHCA transaction ("Acquisition Memo"). (*Id.* ¶¶ 219-21, 243-47.) Although Chen's inexperience should have increased the level of scrutiny and supervision applied by Wahl, in practice the opposite was true: Wahl signed off on that Acquisition Memo

notwithstanding obvious errors and inconsistencies. (*Id.* ¶¶ 222, 248-49.) Among other things, the Acquisition Memo failed to identify an acquisition date, and it alternated between referring to the transaction in the past and future tense. (*Id.* ¶¶ 244-47.) This deeply flawed memo was the ***only*** workpaper in the entire 2013 audit that dealt with the consolidation of BHCA. (*Id.* ¶ 242.)

Although the engagement team identified the BHCA transaction as a risk area (*id.* ¶¶ 230-31), and acknowledged that it could not rely on Accelera's internal controls (*id.* ¶ 232), Wahl and his team failed to apply appropriate scrutiny to the BHCA consolidation. Among other things, Wahl and his team failed to perform field work (*id.* ¶ 252), make appropriate inquiries of BHCA's owner, Wolfrum (*id.* ¶¶ 253-54), review the amendments to the SPA and/or confirm that Accelera had met their terms (*id.* ¶ 256), or obtain a legal opinion about the consolidation (*id.* ¶ 255). Wahl never even asked Accelera whether it had received the BHCA shares, because he "didn't think that's our problem." (*Id.* ¶ 254.) This is all despite the serious red flags that arose during the 2013 audit, including that Accelera's documents and Anton & Chia's workpapers still listed Wolfrum or his wife as the "owners" of BHCA (*id.* ¶¶ 239-40) and that Accelera had already missed the first payment under the SPA (*id.* ¶ 251). Anton & Chia's failure to make appropriate inquiries can be partially attributed to its failure to properly plan the 2013 audit. (*Id.* ¶¶ 229, 235.) Anton & Chia could not even correctly identify members of Accelera management to whom they should have made inquiries. (*Id.* ¶ 234.)

Throughout the remaining seven engagements, Wahl never revisited Accelera's decision to consolidate BHCA, even in the face of mounting red flags that Accelera had never owned or controlled BHCA. (Div. Facts ¶¶ 285, 312.) Among other things: (1) Accelera never made any payments toward BHCA (*id.* ¶ 382); (2) BHCA's bank records revealed that its revenues did not pass to Accelera (*id.* ¶¶ 278, 334); (3) Accelera never filed the Form 8-K that would have been

necessary had it actually acquired BHCA (*id.* ¶¶ 280-81, 348-50); (4) Wolfrum responded to a letter from Anton & Chia requesting he confirm the amount Accelera owed him by issuing the caveat that "the terms of the Stock Purchase Agreement shall control" (*id.* ¶¶ 329-30); (5) Accelera admitted that it had not issued consideration for the amendments extending the payment dates under the SPA (*id.* ¶¶ 342-43); (6) Accelera accounted for other putative acquisitions, where it also entered into purchase agreements but failed to make payment, differently than BHCA (*id.* ¶¶ 344-47, 383); (7) in the 2014 audit, Accelera wrote down the goodwill associated with BHCA, rendering that putative acquisition – toward which Accelera had not yet paid any amount – essentially worthless (*id.* ¶¶ 351-54); and (8) the SEC was investigating Accelera's consolidation of BHCA (*id.* ¶ 384). In addition, during the 2014 audit, the audit manager, Tommy Shek, questioned Wahl as to "which entity are we auditing and consolidating" for the 2014 financials. (*Id.* ¶ 337.)

Nevertheless, neither Wahl nor any member of his engagement teams ever made appropriate inquiries of Accelera or BHCA, even by simply asking Wolfrum if Accelera controlled his company. (*Id.* ¶¶ 286-87, 289-95, 385, 388-95.) Again, these failures can be attributed, in part, to Wahl's continued engagement planning deficiencies. Repeatedly, his teams failed to identify BHCA as a significant matter for review, despite the materiality of the transaction and red flags identified above. (*Id.* ¶¶ 268-69, 379-81.)

Wahl also continued to staff the engagements inappropriately, staffing Deutchman as engagement partner and/or EQR, despite Deutchman's disciplinary history and poor performance. (*Id.* ¶¶ 267, 302-05.) Moreover, Wahl violated PCAOB standards when he signed off on the 2014 audit as the engagement partner, and allowed Deutchman to sign off as EQR,

despite the fact that Deutchman was originally staffed as the engagement partner, and it was Deutchman – not Wahl – who actually played that role during the engagement. (*Id.* ¶¶ 306-10.)

Throughout all eight engagements, Wahl failed to maintain appropriate documentation. Repeatedly, key documents regarding the BHCA transaction were omitted from Anton & Chia's workpapers. (*Id.* ¶¶ 250, 283-84, 387.) Worse yet, nothing in Anton & Chia's workpapers adequately documented how Wahl or his engagement teams reached the conclusion that it was appropriate for Accelera to consolidate BHCA in its financial statements. (*Id.* ¶¶ 241, 282, 386.)

Wahl's conduct constituted violations of numerous PCAOB standards, including by failing to:

- Exercise appropriate due professional care in planning or performing the audits, in violation of auditing standard ("AS") 230 (*id.* ¶¶ 217, 235, 249, 297, 311, 315);
- Document relevant information and significant findings regarding the BHCA acquisition, in violation of AS 3 (*id.* ¶ 297);
- Staff an appropriate EQR, in violation of AS 7 (*id.* ¶ 305);
- Adequately consider audit evidence obtained and audit results, in violation of AS 15 (*id.* ¶ 297, 315);
- Investigate management representations in light of contradictory evidence received, in violation of Statement on Auditing Standards ("AU") 333 (*id.* ¶ 297, 315);
- Ensure that the audits were performed by qualified individuals, in violation of AU 210 and AS 10 (*id.* ¶¶ 217, 305);
- Apply seasoned judgment in the supervision and review of others, in violation of AU 210 (*id.* ¶ 249, 297); and

- Perform appropriate inquiries during interim reviews, in violation of AU 722 (*id.* ¶ 286).

2. Premier-Related Violations of PCAOB Standards

In fiscal year 2011, Premier was in the business of selling discount caskets to Native Americans and low income individuals. (Div. Facts ¶ 405.) At the end of 2011, the company acquired green energy assets, in exchange for Premier stock, from private companies owned by two major shareholders, Randall Letcavage, who later took over the management of Premier, and Marvin Winkler. *(Id.* ¶¶ 407-09.) Those assets were placed in a newly-formed subsidiary, WePower Ecolutions, Inc. ("WePower Ecolutions") run by Kevin Donovan. *(Id.* ¶¶ 410-12.) The assets, and Donovan, proved to be wholly unsuccessful, generating a loss of $756, 9112 and no revenues for the 2012. (*Id.* ¶¶ 421, 425, 432.) Accordingly, Premier discontinued the operations of WePower Ecolutions and recorded the loss. (*Id.* ¶ 425.) On January 7, 2013 the company effectively exchanged WePower Ecolutions with a newly formed company, WePower Eco Corp. ("New Eco") for an unsecured promissory note with a notional value of $5,000,000 ("Note") (*Id.* ¶¶ 426-29.)

Premier engaged Doty Scott, which had valued the green energy assets the previous year, to value the Note. (*Id.* ¶ 4335.) On March 29, 2013, Doty Scott sent an Excel workbook of "initial valuation tables," in an effort to obtain information about New Eco that it needed to do the valuation. (*Id.* ¶ 442.) The workbook contained three fair value figures; the highest, $869,000, identified as the enterprise value and the lowest, $698,377, identified as the value of the Note. (*Id.* ¶ 448.) When he sent the tables to Premier, Phil Scott, the head of Doty Scott, explained that that the higher values represented a cap on the value of the Note and listed the information Doty Scott needed to complete its analysis. (*Id.* ¶ 445.) Doty Scott never received the requested information and the project "went radio silent" for about a year. (*Id.* ¶ 451.) Scott

also cautioned that "this preliminary valuation is not to be quoted at this time." (*Id.* ¶¶ 446.) Nonetheless, in its FY 2012 financial statements Premier disclosed that the Note had been preliminarily valued at $869,000. (*Id.* ¶ 449.)

The Note first impacted Premier's assets and income in the first quarter of 2013. (*Id.* ¶ 452.) Chris Wen, who had little auditing experience and none dealing with valuations, was tasked with evaluating whether the $869,000 Note value was appropriately recorded. (*Id.* ¶¶ 452-56.) After reviewing a non-hard-coded version of the Doty Scott initial valuation tables, Wen did not understand the methodology or the assumptions that produced the $869,000 enterprise value – he paid no attention to the $698,377 promissory note value. (*Id.* ¶¶ 463-67, 70.) Accordingly, he had a short conversation with Phil Scott, after which he still did not understand the methodology or the assumptions. When he discussed the problem with Wahl, Wahl told him to just check the math. (*Id.* ¶ 468.) Wen prepared a workpaper consisting solely of the initial valuation tables and three sentences that supposedly documented the procedures Anton & Chia had followed, in accordance with AU 336. (*Id.* ¶¶ 471-72.)

For the audit, Wen and Tommy Shek, the audit manager, repeatedly requested a copy of a Doty Scott report, which would explain the methodology and assumptions underlying the $869,000 enterprise value. (*Id.* ¶ 482, 495.) They were told that Doty Scott had not prepared a report and could not do so without information about New Eco that the firm had thus far been unable to attain. (*Id.* ¶ 490.) Shek told Wahl that he was unable to get sufficient information to audit the Note valuation and refused to sign off on the relevant workpaper. (*Id.* ¶ 556-67.)

Wahl's solution was for Wen to just "roll forward" the workpaper from the Q1 review, which Wen did. (*Id.* ¶ 5635) Although that workpaper set forth – in wholly inadequate fashion under AS 3 (*Audit Documentation*) – the procedures Anton & Chia had supposedly performed to

evaluate the reasonableness of the assumptions underlying the $869,000 valuation, Anton & Chia had not in fact performed those procedures and did not understand the assumptions (*id.* ¶¶ 473, 589, 606), as Wahl well knew (*id.* ¶ 565). Moreover, Anton & Chia had not obtained any "findings" of Doty Scott, much less understood them. (*Id.* ¶ 551.) Wahl nonetheless signed off on the workpaper, and the $869,000 valuation. (*Id.* ¶ 634.) As a result, Anton & Chia and Wahl violated AU 336 and many other PCAOB standards in its auditing of the Note valuation.

Anton & Chia and Wahl also failed to exercise professional due care and professional skepticism as required by AU 230 (*Due Professional Care in the Performance of Work*) and violated many other PCAOB standards in their audit of Premier's allocation of the entire TPC purchase price to goodwill (*id.* ¶¶ 635-46), including the determination that that goodwill was not impaired (*id.* ¶¶ 648-60).

Accordingly, in auditing Premier's accounting for the Note and the TPC goodwill, Wahl deviated from multiple professional standards by failing to, among other things:

- Exercise due professional care and professional skepticism as required by AU 230 (*id.* ¶ 535(1));
- Properly document purported procedures performed by the engagement team in accordance with AS 3 (*id.* ¶ 535(2));
- Obtain appropriate and evaluate sufficient audit evidence in accordance with AS 14 and AS 15 (*id.* ¶ 535(3)); and
- Appropriately consider and/or address known red flags (*id.* ¶ 533(6)).

In auditing Premier's accounting for the Note, Wahl also failed to:

- Adhere to the requirements of an auditor when assessing the work of a specialist in accordance with AU 336 (*id.* ¶ 535(4));

- Consider fraud in accordance with AU 316 by failing to properly evaluate and consider the circular and unusual nature of the transactions that Premier entered into surrounding the Note (*id.* ¶¶ 535(5), 617-24); and
- Perform alternative procedures when New Eco failed to respond to Anton & Chia's confirmation request, as required by AU 330 (*id.* ¶¶ 619-26).

3. CannaVEST-Related Violations of PCAOB Standards

Finally, with respect to the three CannaVEST quarterly reviews in 2013, Wahl repeatedly violated PCAOB standards, resulting in Anton & Chia's failure to identify CannaVEST's improper accounting for the PhytoSphere transaction in each of those quarters.

(a) Anton & Chia's First Quarter Review

The PhytoSphere transaction was CannaVEST's most significant transaction in the first quarter of 2013. (*Id.* ¶¶ 669-75.) Wahl knew or should have known that the transaction could not be recorded as a $35 million asset on CannaVEST's balance sheet. His analysis, had he performed one, would have been simple: it only required a review of the CannaVEST's 2012 Form 10-K (*id.* ¶¶ 661-66), the PhytoSphere agreement (*id.* ¶¶ 667-73), a cursory examination of CannaVEST's stock trading (*id.* ¶ 698), and basic inquiries of management.

Had Wahl looked at CannaVEST's 2012 Form 10-K, he would have seen that CannaVEST had no revenues, no operations, and just $431 in total assets prior to the closing of the PhytoSphere transaction on January 29, 2013. (*Id.* ¶ 662.) CannaVEST obviously could not pay $35 million in cash for PhytoSphere, nor was it required to. Under the agreement it could pay, in its sole discretion, entirely through the issuance of its common stock, which had little to no trading and had little value. (*Id.* ¶¶ 670, 725.) The agreement used an arbitrary collar of $4.50 to $6.00 per share for shareholder anti-dilutive purposes and the collar was not meant to represent the stock's fair value. (*Id.*) Wahl understood CannaVEST would be paying primarily

with stock and that the collar was intended to be anti-dilutive, but he never considered whether CannaVEST's stock traded in an active market on the OTC. (*Id.* ¶ 671, 701-02.) Had Wahl looked at CannaVEST's trading on January 29, 2013 and over the prior year, he would have seen that CannaVEST's shares had traded on a total of six days in all of 2012, with a total volume of only 1,400 shares, and that there had been no trades at all for nearly seven weeks prior to the acquisition date. (*Id.* ¶ 698.) Because CannaVEST's stock was not trading in an active market, the OTC price did not represent its fair value. (*Id.* ¶¶ 30-31, 698-700.)

Furthermore, every other auditor who looked at the PhytoSphere transaction – Turner Stone and PFK – testified that given the circumstances, CannaVEST should have obtained an independent valuation of the transaction prior to recording it in its quarterly filings with the Commission. (*Id.* ¶¶ 787-98, 712, 721-22.) Even CannaVEST understood that its stock did not trade in an active market, as demonstrated by its disclosures in its 2012 Form 10-K that its stock traded "sporadically" on the OTB and that 99.7% of its stock had changed hands in November 2012 for just over a nickel a share, and by its decision in August 2013 to obtain an independent stock valuation report. (*Id.* ¶¶ 661, 663, 678.) CannaVEST also acknowledged in its communications with the SEC's Division of Corporate Finance in 2014 that its stock did not trade in an active market. (*Id.* ¶¶ 724-27.) Moreover, when Anton & Chia belatedly analyzed the issue in the third quarter, its workpapers (which Wahl reviewed and approved), specifically recognized that CannaVEST's share price on the OTC was not a Level 1 input (*i.e.*, CannaVEST stock was not trading in an active market). (*Id.* ¶ 877-84.)

The GAAP standards applicable to the PhytoSphere transaction are ASC 805, *Business Combinations*, and ASC 820, *Fair Value Measurement*. (*Id.* ¶ 689.) The critical inquiries under those standards are what is the fair value of the consideration to be paid, *i.e.*, what is the fair

value of CannaVEST's restricted stock, as of the acquisition date, January 29, 2013, and what is the fair value of the PhytoSphere assets acquired. (*Id.* ¶ 692-93.) Wahl, however, failed to make, or direct his staff to make, these critical inquiries. (*Id.* ¶¶ 764-65, 767, 771-73, 802, 813, 815-17.)

Anton & Chia's workpapers demonstrate that neither Wahl nor the other members of the engagement team made any inquiries of CannaVEST's management related to the fair value of its most significant transaction. (*Id.* ¶¶ 764-65, 770-71, 805-08, 819.) The workpapers do not even mention that ASC 805 and 820 apply to the transaction. (*Id.* ¶ 765.) Instead, the workpapers from the planning meeting only indicate that Anton & Chia "will make inquiries of management to ensure provided financials are properly presented and repayment procedure is valid in relation to the agreement made upon acquisition" (*id.* ¶ 770), and the engagement summary memo says Anton & Chia "made" such inquiries (*id.* ¶ 819). Moreover, the inquiries checklist for the first quarter review shows that the engagement team was not even thinking about fair value. The inquiries checklist asked whether the fair value of CannaVEST's assets had been measured and disclosed in accordance with GAAP, and the engagement team marked "no" for the answer. (*Id.* ¶ 807.)

The PhytoSphere transaction was also not an "orderly transaction" between "market participants" – two additional factors critical to a fair value analysis under ASC 820. (*Id.* ¶¶ 22-24, 27-29, 693, 703-05.) Medical Marijuana (which had bought PhytoSphere just eight months earlier for only $2.5 million (*id.* ¶ 668)) did not market the company to anyone other than CannaVEST, CannaVEST did not obtain any financial information on PhytoSphere, and it performed no due diligence on the acquisition (*id.* ¶¶ 703-05, 726). As CannaVEST later told the Division of Corporation Finance, it was willing to accept the $35 million stated purchase price because it could be satisfied with CannaVEST stock, which was not trading at the time and had

little value. (*Id.* ¶ 725.) Again, these facts would have been apparent to Wahl during the first quarter review if he had reviewed CannaVEST's 2012 Form 10-K, the PhytoSphere purchase agreement, CannaVEST's trading activity, and had made the basic inquiries necessary to understand the PhytoSphere transaction.

There were also significant red flags that Wahl ignored: PhytoSphere did not have any historical financial statements; there were no financial projections for PhytoSphere; CannaVEST was unable to identify about half the PhytoSphere assets it acquired; and those unidentified assets were simply lumped into "other agreements" as a "plug," or "fudge factor" to arrive at the $35 million purchase price. (*Id.* ¶¶ 696, 803-04, 808-09.)

Furthermore, Wahl agreed to charge CannaVEST an unreasonably low fee of just $2,500 to conduct the first quarter review, a far-below market rate. (*Id.* ¶ 799.) Wahl never communicated with CannaVEST's prior auditor (who had resigned in a fee dispute with CannaVEST given the increased fees in light of the fact that CannaVEST was no longer a shell company and had engaged in a significant business combination) (*id.* ¶¶ 787-98); he forced his new and inexperienced staff to complete the review in just a few days (*id.* ¶¶ 734, 737, 739, 740-41, 742-44, 749-60); and, unlike Turner Stone and PKF, he did not consider whether CannaVEST should obtain an independent valuation of the PhytoSphere transaction in the first quarter (*id.* ¶¶ 814, 817). Compounding these deficiencies, Wahl then tasked his wife, Respondent Chung, to act as the EQR, to effectively rubber-stamp his work. (*Id.* ¶¶ 820-42.) As Wahl well knew, his wife had not performed any audit work for nearly five years, and her only prior relevant experience was as a low-level staff accountant. (*Id.* ¶¶ 845-59.) She had never served in a partner or management-level capacity on any prior engagement, she had never applied ASC 805 or 820, and did not have the required competency to act as the EQR. (*Id.*)

(b) Anton & Chia Second Quarter Review

In the second quarter, CannaVEST made significant changes to the $35 million allocation among the individual PhytoSphere assets. (*Id.* ¶ 864.) As a result, the goodwill amount associated with that transaction rose from about $17.5 million in the first quarter to about $27 million in the second quarter. (*Id.* ¶ 866.) In contravention to AU 722, Wahl failed to ensure that an appropriate balance sheet analytics was conducted to show these significant changes from the first to the second quarter. (*Id.* ¶¶ 862, 865-68.) If the analysis had been done and the changes properly documented, they should have raised a red flag with Wahl regarding the accuracy of the total $35 million value attributed to the PhytoSphere transaction and the need for material modifications to the total asset value on CannaVEST's balance sheet.

(c) Anton & Chia's Third Quarter Review

During the third quarter interim review, CannaVEST obtained two valuation reports – a stock valuation report, and a Phytosphere valuation report. (*Id.* ¶ 877.) The stock valuation report valued CannaVEST's unrestricted shares at $1.13 per share, and its restricted shares at $0.68 per share, as of August 21, 2013. (*Id.* ¶ 678.) The PhytoSphere valuation report valued PhytoSphere at about $8 million, as of January 29, 2013, the acquisition date. (*Id.* ¶¶ 680, 878.)

Wahl used the PhytoSphere valuation report to recommend that CannaVEST write-down the $27 million in goodwill on its balance sheet. The original $35 million less the $8 million valuation equals the $27 million goodwill write-off. In his investigative testimony, Wahl admitted that the PhytoSphere valuation report indicated an impairment of goodwill. (*Id.* ¶ 684.) All of the third quarter workpapers, as well as contemporaneous emails, also repeatedly demonstrate that Wahl used the PhytoSphere valuation report to recommend the $27 million goodwill impairment. (*Id.* ¶ 682.) But the PhytoSphere valuation report provided the value of the transaction ***as of the January 29, 2013***; in other words, the transaction was never worth $35

million. As such, CannaVEST was required to restate its financial results for the first and second quarters. (*Id.* ¶¶ 711, 717-20.) But Wahl never considered whether a restatement was necessary, in contravention of PCAOB standards. (*Id.* ¶¶ 881, 884-85.)

As a result of his improper professional conduct, Wahl violated multiple professional standards in each of CannaVEST's three interim reviews, including by failing to:

- Perform any inquiries of the predecessor auditor prior to accepting the CannaVEST engagement. (AU 315 and AU 722);
- Make adequate inquiries and perform appropriate analytical procedures during the first and second quarter reviews. (AU 722);
- Consider during the third review whether a restatement of CannaVEST's first and second quarter financial information was necessary. (AU 722);
- Properly plan (AU 722) and supervise the first through third quarter reviews. This included the failure to plan the inquiries to be made, identify the accounting standards that apply, and consider how CannaVEST's material weakness in internal control could affect the review procedures. (AU 722);
- Identify that the engagement team did not prepare adequate documentation for the first through third interim reviews. (AS No. 3, AU 722); and
- Exercise due professional care in the performance of his work. (AU 230).

(*Id.* ¶ 894-97.)

4. Wahl's Failures were Knowing, Reckless, Highly Unreasonable, and/or Unreasonable.

These failures to comply with the PCAOB standards amount to improper professional conduct under any of the three definitions in Rule 102(e). For each of the three issuers, Wahl's audit failures – including his failure to ask questions or apply skepticism in response to

numerous inconsistences and red flags – were knowing and reckless. *See Marrie*, 2003 WL 21741785, at *23 (Respondents' "failure to ask questions, to obtain competent evidential material, and to exercise a heightened degree of skepticism in the face of [] numerous inconsistencies" was reckless.). *See infra* §§ III(A)(3), III(B)(1).

Alternatively, Wahl acted with "highly unreasonable conduct" in circumstances where heightened scrutiny was warranted. *See* Rule 102(e)(1)(iv)(B)(1). Accelera's putative acquisition of BHCA, Premier's valuation of the Note, Premier's allocation of the TPC purchase price, and CannaVEST's treatment of its PhytoSphere acquisition were all circumstances that warranted heightened scrutiny. They were each material to the respective issuers' financial statements, and Anton & Chia had identified each issue as an area of risk or importance. (Div. Facts ¶¶ 200, 231, 544, 545, 638, 646, 770.) *See Philip L. Pascale*, Exchange Act Release No. 51393, 2005 WL 636868, at *11 (Mar. 18, 2005) (heightened scrutiny warranted for matters that are "'important or material, or when warning signals or other factors should alert an accountant to a heightened risk"). In response to each issue, Wahl omitted necessary procedures which would have uncovered the issuers' misstatements. *See Marrie v. SEC*, 374 F.3d 1196, 1206 (D.C. Cir. 2004) ("[A]n extreme departure occurs, for instance, when an auditor 'skips procedures designed to test a company's reports or looks the other way despite suspicions.'") (quoting *Marrie*, 2003 WL 2174185, at *11-12). For example, for Accelera, Wahl need only have reviewed the first page of the SPA, or made simple inquiries of Wolfrum, to reveal that Accelera neither owned nor controlled BHCA. For Premier, he need only have contacted Doty Scott to have discovered that the spreadsheets were merely a template, Doty Scott had not reached an opinion on value of the Note, or – later – the firm had determined that the Note was worthless. (*Id.* ¶ 561.) For CannaVEST, Wahl need only have reviewed the 2012 Form 10-K, the PhytoSphere purchase

agreement, CannaVEST's stock trading history, and made basic inquiries of management. Therefore, with respect to each issuer, Wahl's conduct was highly unreasonable and egregiously deviated from professional standards.

At the very least, Wahl engaged in repeated instances of unreasonable conduct that indicates a lack of competence to practice before the Commission. *See John J. Aesoph*, Exchange Act Release No. 78490, 2016 WL 4176930, at *21 (Aug. 5, 2016) (Commission opinion) ("Because Respondents engaged in repeated instances of *highly unreasonable conduct* for the reasons discussed above, they more than satisfy the element of having engaged in repeated instances of *unreasonable conduct*.") (emphasis in original). The Commission has explained that "More than one violation of applicable professional standards ordinarily will indicate a lack of competence." Amendment to Rule 102(e) of the Commission's Rules of Practice, Securities Act Release No. 7593, 1998 WL 729201, at *9 (Oct. 19, 1998). As summarized above, Wahl engaged in unreasonable – or negligent – conduct multiple times throughout each of twelve different engagements. *See Aesoph*, 2016 WL 4176930, at *21 (finding "that the recurrence of unreasonable conduct in so many audit areas … demonstrates a lack of competence to practice before us").

B. Chung Engaged in Knowing, Reckless, Highly Unreasonable and Unreasonable Conduct.

Georgia Chung played a critical role in the CannaVEST first quarter interim review as the EQR. (Div. Facts ¶¶ 820-26.) During that interim review, Chung knowingly, recklessly and/or negligently engaged in highly unreasonable conduct, and in repeated instances of unreasonable conduct, in violation of applicable PCAOB standards. (*Id.* ¶¶ 828-59.) Chung was supposed to act as the back-stop on the engagement team's interim review, identifying any significant engagement deficiencies. (*Id.* ¶¶ 821-26.) But she clearly failed in her duties, simply rubber-

stamped her concurring approval, and thereby assisted Wahl's reckless and hasty review. (*Id.* ¶¶ 828-45.) She was also not qualified to act as the EQR because she lacked the requisite level of competence required under PCAOB standard AS 7. (*Id.* ¶¶ 846-52.)

During the CannaVEST first quarter interim review, Chung failed to conduct an adequate engagement quality review and failed to identify a myriad of significant engagement deficiencies. (*Id.* ¶¶ 830-38.) Specifically, Chung failed to identify that the engagement team did not make adequate inquiries of management, did not properly plan the engagement, and did not prepare adequate documentation for the engagement. (*Id.*) As a result, Chung should not have provided a concurring approval of issuance for the first quarter interim review.

Chung failed to identify that the engagement team did not make adequate inquiries of management related to the PhytoSphere transaction, namely, the fair value of CannaVEST's shares as of January 29, 2013, and the fair value of the PhytoSphere assets acquired. (*Id.*) Chung admitted during the CannaVEST investigation that if a client had a $35 million acquisition, she would have asked the client to obtain a valuation related to the acquisition as support for the $35 million. (*Id.* ¶ 833.) But in her role as EQR, she never suggested to the engagement team that CannaVEST obtain an independent valuation to determine fair value.

In addition, Chung failed to identify that the engagement team did not properly plan the first quarter interim review. The planning memo was devoid of any inquiries related to the fair value of the PhytoSphere transaction, it did not mention that ASC 805 and 820 were the GAAP standards that applied to the transaction, and it failed to address CannaVEST's material weakness in internal control. Chung did not identify any of these planning failures. (*Id.* ¶¶ 830-38.)

Furthermore, Chung failed to identify that the workpapers lacked the necessary documentation to support the conclusions reached by the engagement team. (*Id.* ¶¶ 836-38.) Again, the workpapers were devoid of any inquiries made by the engagement team regarding the fair value of that transaction. (*Id.*) In fact, a question from the inquiries checklist was marked "no" in response to whether CannaVEST's assets had been recorded at fair value in accordance with GAAP. (*Id.* ¶ 871, 839-42.) The workpapers also did not discuss CannaVEST's material weakness in internal control, the associated risk of material misstatement, and plans to address that risk, such as making additional inquiries or performing additional procedures. (*Id.* ¶ 870.)

Moreover, Chung was not qualified to act as an EQR under AS 7. Under AS 7.5, the EQR "must possess the level of knowledge and competence related to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review." As she admitted at the hearing, in her investigative testimony, and in her July 2019 deposition: (1) she had only worked about a year and a half as a staff accountant at another audit firm (almost seven years prior to the CannaVEST interim review); (2) she was never a manager, senior manager, or engagement partner on any audit or interim review at Anton & Chia or the prior audit firm; and (3) at Anton & Chia she only worked on two or three interim review engagements as an EQR, all of which appear to have occurred in 2013 – the Premier, Accelera, and CannaVEST first quarter interim reviews. (*Id.* ¶¶ 845-59.) Notably, Chung claimed that she had a copy of AS 7 whenever she did an interim review, and thus knew or at a minimum should have known that she did not satisfy the AS 7.5 competency standard. (*Id.* ¶ 850.) Indeed, at her July 2019 deposition she was directly asked the question of whether she considered herself competent to act as the EQR, and could not answer that question. (*Id.* ¶ 850.)

As a result of Chung's improper professional conduct, she violated multiple professional standards:

- Failed to identify significant engagement deficiencies. (AS No. 7);
- Failed to identify that the engagement team did not make adequate inquiries. (AS No. 7, AU § 722);
- Failed to identify that the engagement team did not properly plan the interim review, such as plan the inquiries to be made, identify the accounting standards that apply, and consider how CannaVEST's material weakness in internal control could affect the review procedures. (AS No. 7, AU § 722);
- Failed to identify that the engagement team did not prepare adequate documentation. (AS No. 7, AS No. 3, AU § 722);
- Inappropriately provided a concurring approval of issuance. (AS No. 7); and
- Failed to exercise due professional care in the performance of her work. (AS No. 7, AU § 230).

(*Id.* ¶¶ 894-96, 898.)

Chung's willingness to agree to act as the EQR on the CannaVEST engagement while knowing she was not competent to perform that role was both knowing and reckless, and is a single act of highly unreasonable conduct given her lack of competency to act as an EQR, and her repeated failures to identify significant engagement deficiencies are repeated instances of unreasonable conduct, all of which demonstrate that she is unfit to appear and practice before the Commission as an accountant.

C. Deutchman Engaged in Repeated Instances of Knowing, Extremely Reckless, Highly Unreasonable and Negligent Conduct.

Deutchman served as the engagement partner for Accelera's third quarter 2014 review, and the EQR for Accelera's 2014 year-end audit and 2015 interim reviews. (*Id.* ¶ 5.) During each of those engagements, Deutchman's conduct violated numerous PCAOB standards. (*Id.* ¶¶ 215, 297, 398.)

For Deutchman's first Accelera engagement – the third quarter 2014 review – he just "assumed" the previous engagement teams had accounted for BHCA properly. (*Id.* ¶ 274.) This inertia persisted even after Accelera's new CFO, Daniel Freeman, began to wave red flags for Deutchman. (*Id.*) Freeman warned Deutchman repeatedly that Accelera had "not closed" on BHCA and that "Behavioral was inappropriately consolidated." (*Id.* ¶¶ 272-73.) Despite these warnings and other red flags (*id.* ¶¶ 279-81), Deutchman did not tailor appropriate inquiries regarding the BHCA transaction, or even discuss the consolidation with his engagement team. (*Id.* ¶¶ 281, 285-95.)

In the 2014 audit, both the red flags and Deutchman's apathy persisted. Freeman continued to voice his objection to consolidation. (*Id.* ¶¶ 316-21.) In response, Deutchman again did not perform any additional procedures or discuss Freeman's concerns with his engagement team. (*Id.* ¶¶ 322-23, 325.) Other red flags similarly went ignored, including Wolfrum's addendum to his confirmation of liability letter (*id.* ¶¶ 329-31), BHCA bank records, which revealed it never passed its revenues on to Accelera (*id.* ¶ 334), Accelera's admission that it had not issued consideration for the amendments to the SPA (*id.* ¶¶ 342-43), Accelera's inconsistent accounting for its other putative acquisitions (*id.* ¶¶ 344-47), and the write-down of the BHCA goodwill (*id.* ¶¶ 351-54). In addition, Shek questioned Deutchman as to which entities should be included in the 2014 audit, and he repeatedly asked Deutchman to obtain a legal opinion as to

that issue. (*Id.* ¶¶ 337-39.) But Deutchman ignored and "placated" Shek, and he never obtained the legal opinion. (*Id.* ¶ 341.)

Instead of performing additional audit inquiries, asking Wolfrum about the status of the SPA, obtaining a third party opinion, or even discussing the consolidation with his engagement team, Deutchman continued to just "assume[] that it was handled correctly." (*Id.* ¶¶ 358-59, 363-66, 370.) He never even bothered to form an opinion of his own about whether or not it was proper to consolidate BHCA. (*Id.* ¶ 362.) Instead he "deferred to the firm's initial assessment." (*Id.*)

In the 2014 audit, Deutchman also inappropriately blended the roles of EQR and engagement partner. Deutchman was originally staffed as the engagement partner, and he actually played the role of engagement partner during the audit. (*Id.* ¶¶ 306-10.) He nevertheless signed off as the EQR, depriving Accelera and the investing public of the proscribed level of independent review. (*Id.*)

The 2015 reviews continued in the same vein. The same red flags identified above persisted. In addition, during the 2015 reviews, Anton & Chia learned the last amendment to the SPA had expired (*id.* ¶ 383) and that the SEC was investigating Accelera regarding its consolidation of BHCA (*id.* ¶ 384). Nevertheless, the engagement team – including Deutchman – never discussed Accelera's consolidation of BHCA, it produced no workpapers on that topic, and it failed to perform necessary inquiries about the transaction. (*Id.* ¶¶ 385-86, 388-95.)

Throughout all five engagements, Deutchman failed to appropriately document his work. Not a single workpaper dealt with the issue of BHCA's consolidation. (*Id.* ¶¶ 282, 355, 386.) Key agreements related to the SPA were omitted from the workpapers. (*Id.* ¶¶ 283-84, 356, 387.)

Deutchman never documented Freeman's repeated warnings that the consolidation of BHCA was inappropriate. (*Id.* ¶ 326.)

Deutchman's conduct constitutes violations of PCAOB standards. Among other things, he:

- Failed to exercise due professional care, in violation of AS 230 (*id.* ¶ 315);
- Inappropriately blended the roles of EQR and engagement partner in the 2014 audit, in violation of AS No. 7 (*id.* ¶¶ 310);
- In violation of AS 7, approved issuance of the audit report even though there were significant engagement deficiencies (*id.* ¶¶ 325, 327-28);
- Failed to perform appropriate inquiries during interim reviews, in violation of AU 722 (*id.* ¶¶ 286, 388);
- Failed to sufficiently document evidence obtained, in violation of AS No. 3 (*id.* ¶ 315); and
- Failed to adequately consider audit evidence obtained and audit results, in violation of AS No. 15 (*id.* ¶ 315).

As with Wahl, these audit failures constitute improper professional conduct under any of the three definitions set forth in Rule 102(e)(1)(iv). His conduct was at least highly reckless, if not knowing. *See infra* § III(B)(1). The consolidation of BHCA warranted heightened scrutiny. Among other reasons, BHCA comprised 90% of Accelera's revenues in 2014. (Div. Facts ¶ 200.) In the face of Freeman's concerns and other red flags surrounding the BHCA consolidation, it was reckless and highly unreasonable to not document his communications, not discuss them with the engagement team, and not analyze the transaction, and just "assume" that the accounting was correct.

II. Wahl and Deutchman Willfully Violated or Willfully Aided and Abetted Violations of the Federal Securities Laws.

Rule 102(e)(1)(iii) of the Commission's Rules of Practice provides, that the Commission may censure a person or deny, temporarily or permanently, a person's privilege of appearing or practicing before the Commission as an accountant if that person is found to have willfully violated or willfully aided and abetted violations of the federal securities laws or the rules and regulations thereunder. As discussed below, Wahl and Deutchman willfully violated and/or willfully aided and abetted violations of Sections 10(b) and 13(a) of the Exchange Act, and Rules 10b-5(b), 13a-1, and 13a-13 thereunder and Rule 2-02(b) of Regulation S-X.

III. Wahl and Deutchman Violated, and/or Willfully Aided and Abetted Anton & Chia's Violations of, Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder.

As to Accelera, Anton & Chia violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Deutchman aided and abetted that violation. As to Premier, both Anton & Chia and Wahl violated Section 10(b). In the alternative, Wahl aided and abetted Anton & Chia's direct violation.

A. Wahl Willfully Violated Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder.

Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder prohibit any person, in connection with the purchase or sale of a security, directly or indirectly, from making any untrue statement of a material fact. Courts have sustained claims under Section 10(b) and Rule 10b-5(b) based on statements in the audit opinion that the audit firm had conducted its audit in accordance with PCAOB standards and, based on its audit, was of the opinion that the financial statements were fairly presented in conformity with GAAP. *E.g.*, *In re Lehman Bros. Sec. and ERISA Litig.*, 131 F. Supp. 3d 241, 255 (S.D.N.Y. 2015), *reversed on other grounds*, 655 Fed. Appx. 13 (2d Cir. July 8, 2016) (denying E&Y's motion for summary judgment); *Gould v. Winstar*

Communications, Inc., 692 F.3d 148, 158-59 (2d Cir. 2012) (vacating summary judgment, finding that a jury reasonably could determine that the audit was so deficient as to be "highly unreasonable, representing an extreme departure from the standards of ordinary care . . . to the extent that the danger was either known to [auditor] or so obvious that [auditor] must have been aware of it.") (internal citation omitted).[4]

Section 10(b) of the Exchange Act and Rule 10b-5(b) require a showing of scienter. *Aaron v. SEC*, 446 U.S. 680, 701-02 (1980). In the Ninth Circuit and the D.C. Circuit, scienter may be established by a showing of extreme recklessness. *Gebhart v. SEC*, 595 F.3d 1034, 1040 (9th Cir. 2010); *Dolphin & Bradbury, Inc. v. SEC*, 512 F.3d 634, 639 (D.C. Cir. 2008) (holding that "extreme recklessness" satisfies the scienter standard and defining extreme recklessness as an "'extreme departure from the standards of ordinary care . . . which presents a danger of misleading buyers or sellers of securities that is either known to the defendant or is so obvious that the actor must have been aware of it.'") (internal citations omitted). In particular, an auditor may be found to have acted with scienter when he acts with an "egregious refusal to see the obvious, or to investigate the doubtful, or that the accounting judgments which were made were such that no reasonable accountant would have made the same decisions if confronted with the same facts," *New Mexico State Inv. Counsel v. Ernst & Young LLP*, 641 F.3d 1089, 1097-98 (9th Cir. 2011) (quoting *In re Software Toolworks Inc.*, 50 F.3d 615, 628 (9th Cir. 1994)). *See also Lehman,* 131 F. Supp. 3d at 259 ("a sufficient accumulation of 'red flags' perhaps could permit the inference that the auditor did not actually believe that it had conducted a GAAS-compliant

[4] *See also, e.g., Timothy Quintanilla, CPA*, Exchange Act Release No. 78145, 2016 WL 4363433 (June 23, 2016) (Commission opinion) (describing antifraud charges based on failure to audit critical aspects of financial statements, deviations from PCAOB standards, and failure to investigate red flags); *John Briner, Esq.*, Exchange Act Release No. 74065, 2015 WL 220959 (Jan. 15, 2015) (litigated order charging auditors with fraud because auditors ignored red flags and audits were so deficient as to amount to no audits at all).

audit (*i.e.*, that it intentionally or recklessly cut corners or otherwise skirted auditing standards) when it rendered its opinions.").

1. Wahl Issued a False and Misleading Audit Report on Premier's 2013 Financial Statements.

Wahl violated Section 10(b) and Rule 10b-5(b) when he issued an audit report on Premier's 2013 financial statements which falsely and misleadingly claimed that Anton & Chia (1) had conducted its audit in accordance with PCAOB standards and, (2) based on its audit, was of the opinion that the financial statements were fairly presented in conformity with GAAP. (Div. Facts ¶¶ 532, 533.) These statements were both false.

First, Anton & Chia's 2013 audit of Premier repeatedly violated the PCAOB standards, including by relying as audit evidence on tentative, unfinished work of a specialist (*id.* ¶ 586), by failing to obtain an understanding of the methods and assumptions used by the specialist or to make appropriate tests of data provided to the specialist (*id.* ¶¶ 550, 572); by failing to adequately consider the Note's collectability (*id.* ¶¶ 614-18); by failing to properly consider the circular and unusual nature of the transactions that Premier entered into surrounding the Note (*id.* ¶¶ 619-26); and by failing to exercise professional skepticism about the absence of a valuation expert's purchase price allocation analysis even though one had been commissioned and more than a year had passed since the acquisition (*id.* ¶¶ 636-42, 646.), and the Company had repeatedly touted the number and value of TPC's contracts (*id.* ¶¶ 643-44).

Second, Anton & Chia's opinion about Premier's financial statements contained the implicit factual representations that Anton & Chia actually believed that Premier's financial statements were fairly presented in conformity with GAAP, and that that opinion had reasonable basis in fact. *Omnicare, Inc. v. Laborers District Council Construction Industry Pension Fund*, 575 U.S. 175, 194 (2015). Neither of those implicit factual representations were true. Anton &

Chia had no reasonable basis to believe that the $869,000 Note value conformed with GAAP (*id.* ¶¶ 547), or that the $4.5 million goodwill derived from the TPC acquisition was not impaired (*id.* ¶¶ 636, 655-60).

2. Wahl's Misstatements Were Material.

These misstatements were material. "[A] reasonable shareholder would consider it important" whether Premier's financial statements had undergone a PCAOB-compliant audit. *See Basic Inc. v. Levinson*, 485 U.S. 224, 231-32 (1988). Further, a reasonable shareholder would consider it important whether Premier's financial statements were accurate and complied with GAAP. *See In re Kidder Peabody Sec. Litig.*, 10 F. Supp. 2d 398, 410 (S.D.N.Y. 1998) (financial reports are of particular interest to investors). This is particularly true here, where the misstatement of the Note value inflated Premier's balance sheet by 13%, the Note was Premier's largest asset other than goodwill (Div. Facts ¶ 529), and the income associated with it reduced the Company's losses by roughly 16.74% (*id.* ¶ 530).

3. Wahl Acted Knowingly or with Extreme Recklessness.

In addition, Wahl acted knowingly or with at least extreme recklessness. Wahl was an experienced, educated accountant and auditor. (*Id.* ¶ 3.) He knew what the PCAOB and GAAP standards required. *See McCurdy v. SEC*, 396 F.3d 1258, 1265 (D.C. Cir. 2005) (quoting *James Thomas McCurdy*, Exchange Act Release No. 34-49182, 2004 WL 210606, at *9 (Feb. 4, 2004) (Commission opinion)). He also knew that Premier had not yet obtained the valuation expert's purchase price allocation even though more than a year had passed since the acquisition (*id.* ¶¶646), and the Company had repeatedly touted the number and value of TPC's contracts (*id.* ¶¶ 505).

Wahl also knew that, contrary to the PCOAB standards, Anton & Chia had failed to obtain an understanding of the methods and assumptions used by the specialist (*id.* ¶¶ 560, 588,

565, 572) or make appropriate tests of data provided to the specialist (*id.* ¶¶ 465, 468, 565). *See Lehman,* 131 F. Supp. 3d at 259. He also knew or recklessly disregarded that, contrary to GAAP, Premier had misstated the value of the Note by, among other things, using a purported valuation of New Eco, not the Note (Div. Facts ¶ 448) and had failed to obtain a purchase price allocation for TPC even though the acquisition had occurred more than a year before (*id.* ¶ 646).

B. Wahl and Deutchman Willfully Aided and Abetted Anton & Chia's Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder.

For similar reasons, Wahl and Deutchman aided and abetted Anton & Chia's securities fraud.[5] To establish liability for aiding and abetting, the Division must show: "(1) that a principal committed a primary violation; (2) that the aider and abettor provided substantial assistance to the primary violator; and (3) that the aider and abettor had the necessary 'scienter' – *i.e.*, that she rendered such assistance knowingly or recklessly." *Graham v. SEC*, 222 F.3d 994, 1000 (D.C. Cir. 2000).

1. Anton & Chia Committed Securities Fraud.

Here, Anton & Chia committed the primary violation of Section 10(b) and Rule 10b-5 fraud in connection with the Premier and Accelera engagements.[6] As to Premier, Wahl's conduct and state of mind, described above, can be imputed to Anton & Chia. *SEC v. Platforms Wireless Int'l Corp*, 559 F. Supp. 2d 1091, 1095 (S.D. Cal. 2008), *aff'd*, 617 F.3d 1072 (9th Cir. 2010); *SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082, 1089 n.3 (2d Cir. 1972).

As to Accelera, Anton & Chia also committed fraud by issuing an audit report for

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[5] Even if this Court were to find that Wahl – despite being the 90% owner of Anton & Chia and the audit engagement partner (Div. Facts ¶ 2) – did not have ultimate authority over Anton & Chia's audit report in Premier, he still is liable under the alternative theory that he aided and abetted Anton & Chia's primary violation. *See Janus Capital Group, Inc. v. First Derivative Traders*, 564 U.S. 135, 142 (2011) ("For purposes of Rule 10b-5, the maker of a statement is the person or entity with ultimate authority over the statement, including its content and whether and how to communicate it.").

[6] The OIP alleged that Anton & Chia violated Section 10(b) of the Exchange Act and Rule 10b-5 and Rule 2-02(b) of Regulation S-X.

Accelera's 2014 financial statements that claimed Anton & Chia (1) had conducted its audits in accordance with PCAOB standards and, (2) based on its audits, was of the opinion that the financial statements were fairly presented in conformity with GAAP. (Div. Facts ¶¶ 371-72.) Those statements were false. Anton & Chia's audit repeatedly and egregiously deviated from PCAOB standards. *See supra* §§ I(A)(1) & I(C).

In addition, Accelera's financial statements clearly violated GAAP, by improperly including the financial results of BHCA. (Div. Facts ¶¶ 195-99.) GAAP required that Accelera "control" BHCA before it could consolidate BHCA into its financial statements. (*Id.* ¶ 197.) But Accelera did not control BHCA in any way. It never obtained any ownership of BHCA (because it never paid, as required by the SPA and other agreements), and it never controlled BHCA's personnel, operations, or finances. (*Id.* ¶¶ 198, 162-73.) Accelera itself admitted this when it restated its financials in 2016 and disclosed that "the financial statements of BHCA should have never been consolidated with our financial statements." (*Id.* ¶ 194.) The improper consolidation resulted in material overstatement of Accelera's financial position; BHCA comprised 90% of Acelera's revenues in 2014, and its purported acquisition transformed the company from a shell into an operating entity. (*Id.* ¶¶ 200-01.)

Anton & Chia, through Deutchman, was at least extremely reckless in including these false statements in its audit report. As an accountant of 48 years (Div. Facts ¶ 5), Deutchman knew what GAAP required, and he knew they were not met here. The SPA and other agreements, which Deutchman had access to, were clear that ownership of BHCA would not pass to Accelera until "payment of the purchase price." (*Id.* ¶¶ 118-20, 126, 128, 131, 133, 136-37.) And Deutchman knew that no payment had yet been made. (*Id.* ¶¶ 229-30.) Moreover, Accelera's own CFO warned him that the "entities were inappropriately consolidated." (*Id.*

¶¶ 273, 316-18.)

Deutchman also knew the PCAOB standards, and he knew that they were not met. During the 2014 audit, there were abundant, serious red flags that BHCA had been improperly consolidated. *See supra* § I(C). The decision to issue a clean audit opinion in the face of these red flags constitutes an "accounting judgment[] … that no reasonable accountant would have made … if confronted with the same facts." *Ernst & Young*, 641 F.3d at 1098. The sheer number of these red flags compels an inference of scienter. *Id.* ("The more facts … that should cause a reasonable auditor to investigate further before making a representation, the more cogent and compelling a scienter inference becomes.") (citing *In re Countrywide,* 588 F. Supp. 2d 1132, 1197 (C.D. Cal. 2008)).

Moreover, in the face of these red flags, Deutchman did not perform additional audit procedures, even by simply documenting the issues or informing the other members of the engagement team. (Div. Facts ¶¶ 358-59, 363-66, 369-70.) He did not pose any inquiries to Freeman, Accelera, or Wolfrum to gain a better understanding of their agreement or relationship. (*Id.* ¶¶ 360, 364-69.) Even though he "placated" Shek by agreeing to obtain a legal opinion about the consolidation, and despite the fact that he acknowledged he needed such an opinion in order to determine the accounting treatment of a potential default, Deutchman never obtained a legal opinion. (*Id.* ¶¶ 338-41.) Deutchman's failure to react appropriately to the red flags regarding Accelera's accounting for BHCA constitutes an "egregious refusal to see the obvious, or to investigate the doubtful." *Ernst & Young*, 641 F.3d at 1098. Deutchman's scienter can be imputed to Anton & Chia. *See In re Omnicare, Inc. Securities Litig.*, 769 F.3d 455, 476 (6th Cir. 2014); *Platforms Wireless*, 559 F. Supp. 2d at 1095.

2. Wahl and Deutchman Provided Substantial Assistance to Anton & Chia for its Violations.

Deutchman and Wahl each provided substantial assistance for Anton & Chia's violations. Deutchman, as the EQR, provided concurring approval for Anton & Chia's 2014 audit of Accelera, and performed duties that are typically associated with the engagement partner. (Div. Facts ¶¶ 306-10.) Wahl, as the engagement partner, authorized the inclusion of Anton & Chia's reports on 2013 Premier's financial statements. (*Id.* ¶¶ 260, 374.) Without Wahl's signoff (for Premier) and Deutchman's concurring EQR review (for Accelera), Anton & Chia would not, under the PCAOB standards, have been able to issue the audit reports. *See* AS No. 10.3 (*Supervision of the Audit Engagement*); AU 508.07-.08 (*Reports on Audited Financial Statements*).

Wahl and Deutchman also acted with the requisite scienter. Courts can find that a respondent acted with the "extreme recklessness" required to show aiding and abetting liability when he encountered "red flags," or "suspicious events creating reasons for doubt" that should have alerted him to the improper conduct of the primary violator, or if there was "a danger . . . so obvious that the actor must have been aware of" the danger. *Howard v. SEC*, 376 F.3d 1136, 1143 (D.C. Cir. 2004) (internal citations omitted); *see also Ponce v. SEC*, 345 F.3d 722, 737 (9th Cir. 2003) ("Ponce certainly had knowledge, or at least was reckless in not recognizing, the misleading nature of the statements."). Wahl and Deutchman knew, or were extremely reckless in not knowing, that Anton & Chia's statements in its audit reports that it had conducted its audit in accordance with applicable standards were false and that the opinions it expressed that the financial statements conformed to GAAP were materially misleading. Wahl's and Deutchman's scienter, including their encounters with numerous "red flags," and "suspicious events creating reasons for doubt" are addressed above in Sections I(A)(3) and I(B), respectively.

IV. Wahl and Deutchman Willfully Aided and Abetted and Were Causes of Violations of Section 13(a) of the Exchange Act.

Under Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder, issuers of securities are required to file annual and quarterly reports. Courts have held that implicit in these provisions is the requirement that that information be true, correct, and complete. *See, e.g., Howard v. Everex Systems, Inc.*, 228 F.3d 1057, 1061-62 (9th Cir. 2000); *SEC v. Savoy Industries, Inc.*, 587 F.2d 1149, 1165 (D.C. Cir. 1978). No showing of scienter is required to prove a violation of these provisions. *SEC v. McNulty*, 137 F.3d 732, 740-41 (2d Cir. 1998).

As discussed above, to establish liability for aiding and abetting, the Division must show: (1) a primary violation of the securities laws; (2) substantial assistance by aider and abettor to the primary violator; and (3) the necessary scienter. *Graham*, 222 F.3d at 1000. Similarly, to establish liability for "causing" a violation, the Division must show, (1) a primary violation of the securities laws; (2) an act or omission by the respondent that was a cause of the violation; and (3) the respondent knew, or should have known that his or her conduct would contribute to the violation. *Robert Fuller*, Securities Act Release No. 8273, 2003 WL 22016309, at *4 (Aug. 25, 2003) (Commission opinion). Negligence is sufficient to establish liability for causing a primary violation where – as here – scienter is not a requirement of the primary violation. *See KPMG Peat Marwick LLP,* Securities Act Release No. 1360, 2001 WL 47245, at *19-20, (Jan. 19, 2001) (Commission opinion). Here, Wahl and Deutchman both aided and abetted, and caused, the issuers' violations of Section 13(a).

A. Accelera and Premier Filed False Financial Statements.

Accelera violated Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 when it filed Forms 10-K and 10-Q that falsely represented it owned BHCA and deceptively consolidated BHCA's financial statements with its own. (Div. Facts ¶¶ 195-98.) Premier violated

Section 13(a) and Rule 13a-1 thereunder when it filed a Form 10-K which misrepresented the value of a promissory note and the goodwill associated with the TPC acquisition (Div. Fact ¶ 512). *See Ponce*, 345 F.3d at 734.

B. Wahl and Deutchman Provided Substantial Assistance to and Were Causes of Accelera's and Premier's Violations.

Wahl and Deutchman substantially assisted and were causes of those violations, because, as engagement partner and EQR, they authorized the inclusion of audit reports containing unqualified opinions in Accelera's and Premier's Forms 10-K in violation of PCAOB standards. *See* AU 508.07-.08. Without those audit reports, Accelera and Premier would not have been able to publicly file their financial statements. *Id.* In addition, both Wahl and Deutchman signed off on the reviews of Accelera's financial statements in its quarterly reports in 2014 and 2015.

Wahl and Deutchman acted at least recklessly in assisting Accelera and Premier with the dissemination of their false and misleading financial statements. Based on all of the information available to him, including the red flags discussed above in Section I(A)(2), Wahl was reckless to have signed off on Premier's 2013 audit. In addition, based on all of the information available to them, including the red flags discussed above in Sections I(A)(1) and I(C), Wahl and Deutchman were reckless to have signed off on the eight Accelera engagements. At the very least, this conduct was unreasonable, and therefore negligent.

V. Wahl and Deutchman Willfully Aided and Abetted and Were Causes of Anton & Chia's Violations of Rule 2-02(b) of Regulation S-X.

Regulation S-X requires that the financial statements included in the registrant's annual report be certified by an independent accountant and include a report from such accountant that complies with the requirements of Rule 2-02. Rule 2-02(b) of Regulation S-X requires the accountant's report to state whether the audit was made in accordance with generally accepted auditing standards ("GAAS"), as well as its opinion as to whether the financial statements are

consistent with GAAP. An audit firm violates these provisions if it issues a report stating that it has conducted its audit in accordance with PCAOB standards and that, in its opinion, the financial statements conformed with GAAP, when those statements in the report are inaccurate. *See BDO USA, LLP,* Exchange Act Release No. 75862, 2015 WL 5243894 (Sept. 9, 2015) (settled order).

A. Anton & Chia Issued False Audit Reports for Accelera and Premier.

Premier's 2013 Form 10-K, Accelera's 2013 Form 10-K, and Accelera's 2014 Form 10-K all contained unqualified opinions from Anton & Chia. (Div. Facts ¶¶ 257-58, 371-72, 531-34.) Anton & Chia's reports stated that Anton & Chia (1) had conducted its audits in accordance with PCAOB standards and, (2) based on its audits, was of the opinion that the financial statements were fairly presented in conformity with GAAP. In each case, as previously discussed in Sections I(A)(1) and I(B) above, those representations were false and/or misleading.

B. Wahl and Deutchman Provided Substantial Assistance to and Were Causes of Anton & Chia's Violations.

Wahl willfully aided and abetted and caused Anton & Chia's violations of Rule 2-02(b) by authorizing Anton & Chia to issue audit reports for inclusion in Forms 10-K stating that Anton & Chia's audits at issue complied with PCAOB standards when he knew or recklessly disregarded that the audits departed from PCAOB standards, and that the relevant financial statements were presented in conformity with GAAP when he knew or recklessly disregarded that they were not so presented. *See supra* § I(A). Similarly, as EQR, Deutchman aided and abetted and caused Anton & Chia's violations of Rule 2-02(b) by not identifying the engagement team's departures from PCAOB standards, and not identifying that the audit reports inappropriately stated that the audit was conducted in accordance with PCAOB standards, prior to issuance or the report. *See supra* § I(C).

VI. Wahl, Chung, and Deutchman Should Be Sanctioned for Their Egregious and Recurrent Conduct.

A. The Public Interest

The public interest would be served by sanctioning Wahl, Chung, and Deutchman. In determining whether sanctions should be imposed in the public interest, the Commission may consider: (a) the egregiousness of the actions; (b) the isolated or recurrent nature of the infractions; (c) the degree of scienter involved; (d) the sincerity of the respondent's assurances against future violations; (e) a respondent's recognition of the wrongful nature of his or her conduct; and (f) the likelihood that a respondent's occupation will present opportunities for future violations. *See Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979). In addition to these factors, the Commission also may consider the extent to which a sanction will have a deterrent effect. *See Schield Management Co.*, Exchange Act Release No. 53201, 2006 WL 231642, (Jan. 31, 2006) (Commission opinion).

1. Wahl

Wahl's conduct was egregious, recurring, and extremely reckless. He rubber-stamped misstated financial statements, in the face of glaring red flags, when even minimal inquiries would have uncovered the issuers' misrepresentations. Wahl's violations spanned over multiple years (early 2013 through August 2016) and three different issuer clients.

Further, Wahl has never recognized the wrongfulness of his conduct, or provided any assurances against future misconduct. Even after the mountain of evidence presented at trial, he maintains that there were "no mistakes," in any of the engagements at issue. (*Id.* ¶ 908.) In fact, Wahl has shown contempt for the Commission and the rules that it enforces, describing the Division's charges as "bullsh-t" and the PCAOB standards as "a joke." (Div. Facts ¶ 910.) He never even looked at the two most recent inspection reports produced by the PCAOB, which

identified numerous deficiencies at Anton & Chia. (*Id.* ¶ 905.) He even instructed an employee to create the misimpression that he had performed work that he had not performed, for a PCAOB inspection. (*Id.* ¶ 903.)

Wahl has shown no understanding of the import of his role as an auditor. He testified that an auditors' role is only sometimes important, depending on the "type of company" he is auditing. (Div. Facts ¶ 906.) At Anton & Chia, he was much more concerned with growing the firm at a reckless pace than he was ensuring audit quality. (*Id.* ¶¶ 7-9.)

Moreover, even if Wahl had provided assurances against future misconduct, he has shown that his word cannot be trusted. Wahl repeatedly lied to the Commission staff. (Div. Facts ¶¶ 904, 922.) Worse yet, he submitted a falsified document to his own expert witness, and then lied about it to this Court under penalty of perjury. (*Id.* ¶¶ 924-39.) Wahl provided his expert, John Misuraca, a financial forecast purportedly effective during the first quarter interim review of CannaVEST. (*Id.* ¶ 925.) This forecast, which was the ***sole*** document Misuraca relied upon for his opinion regarding the CannaVEST matter, was doctored by Wahl. (*Id.* ¶¶ 930-35.) Later, Wahl lied to this Court, in sworn testimony, by falsely claiming that he merely "pasted" an existing projection into an email, when in reality he made the financial projections up out of whole cloth. (*Id.* ¶¶ 937-39.)

Finally, Wahl will have future opportunities to violate. He now has a new company, NorAsia, where he performs consulting work for both public and private companies. (Div. Facts ¶¶ 911-13.) Although he claimed in his March 15, 2019 Motion to Dismiss that he "had no interest" in audit work, ***that very month*** Wahl was reviewing the financial statements for public company, Max Sound Corporation. (*Id.* ¶¶ 914-23.) Although Wahl self-servingly characterized his work as "consulting," he reviewed the publicly-filed financial statements for "material

differences," was paid for his work, and reviewed and approved an audit opinion affixed to Max Sound's Form 10-K under his name, G.A. Wahl. (*Id.*)

In summary, Wahl's contemporaneous work – or lack thereof – on all three engagements, Premier, Accelera, and CannaVEST, demonstrate that he is unfit to appear or practice before the Commission. And his after-the-fact justifications for his egregious conduct and shoddy work only amplify the need for significant remedial relief. Wahl has demonstrated both a woeful lack of insight, contending that he got things 1000% right, and a propensity to prevaricate, most clearly demonstrated by his deception of his falsifying evidence for his expert to consider, and then lying under oath about it. In short, Wahl cannot be trusted to uphold the standards of his profession.

2. Chung

Chung also deserves substantial sanctions as a result of her improper professional conduct. PCAOB standard AS No. 7, *Engagement Quality Review*, makes clear the essential role that an EQR occupies in the audit and interim review process. In an interim review, an EQR is, among other things, required to evaluate the significant judgements made by the engagement team and the related conclusions reached in forming the overall conclusions on the interim review, evaluate whether the engagement documentation supports the conclusions reached, and provide a concurring approval of issuance only if, after performing her review with due professional care, she is not aware of any significant engagement deficiency.

The evidence is clear that Chung was not competent to act as the EQR, and did so only because no other partner was available to act in that role. Wahl should have done the responsible thing, and incur the expense of obtaining a partner from another firm to act as EQR. Instead, to save both time and money, Wahl enlisted his wife, and Chung knew or should have known that she was unqualified to perform that role. She had not practiced for years, had no partner or

manager level auditing experience, and had no experience analyzing business combinations under ASC 805 and 820. In the exercise of due professional care, she should have declined her husband's request. Had she performed her EQR role with any degree of professional care, she would have identified the significant engagement deficiencies, and concluded, as every other auditor who looked at the transaction concluded, that there was no basis under ASC 805 and 820 to value the PhytoSphere at $35 million. Indeed, to answer the question of fair value, all she had to do was follow her own advice – ask CannaVEST to obtain an independent valuation of the transaction to support the total asset value recorded on the balance sheet.

Chung, like her husband, has no recognition of the wrongfulness of her conduct. At the hearing, she could not recall what work she had done on the CannaVEST engagement, but she knew she had done "everything right, nothing wrong" and that she did her job "according to the U.S. GAAP and GAAS standard." (Div. Facts ¶ 908.)

Moreover, Chung deserves substantial sanctions as she continues to allow herself to be used as the titular head of various companies that are, in fact, controlled by her husband, including NorAsia and MattCarl, and there is nothing to prevent Wahl from continuing to audit public companies (such as Max Sound), hiding behind his wife's CPA license.

3. Deutchman

Deutchman, too, merits substantial sanctions under the *Steadman* factors. His conduct was egregious. Despite myriad red flags, including Accelera's own CFO's warning that BHCA was "inappropriately consolidated," Deutchman just "assumed" that Accelera's accounting was correct. He felt it was "not his place" to question Accelera's accounting. But, as an auditor, is precisely what the rules required. And that was precisely what the company and the investing public was relying on him to do.

Deutchman's misconduct recurred throughout the five Accelera engagements he worked on. In addition, Deutchman is a recidivist. This would be his ***third*** time being sanctioned for audit-related misconduct. (Div. Facts ¶¶ 899, 901.) Deutchman apparently learned no lessons from these previous sanctions. Instead, he projects the blame outward, insisting that those cases were "a travesty," not "a big deal," and "a nothing case." (*Id.* ¶¶ 900, 902.)

Deutchman has expressed no recognition of the wrongfulness of his conduct, or assurances against future misconduct. To the contrary, Deutchman, like Wahl and Chung, claims that his conduct was unassailable. This is particularly egregious because Deutchman also disclaimed any memory of his conduct. So, he cannot remember what he did, but he knows that it was perfect. Deutchman, like Wahl, attempts to place the blame for his violations on others, which further demonstrates his lack of recognition of his wrongful conduct. *ZPR Investment Mgmt., Inc.*, Advisers Act Release No. 4249, 2015 WL 6575683, at *29 & n.142 (Oct. 30, 2015) (attempts to shift blame are indicia of respondent's failure to take responsibility for his actions).

Furthermore, as to each of the Respondents, their claim that that their conduct complied with PCAOB standards, and that they would not have done anything differently, flies in the face of Accelera's and CannaVEST's restatements (Div. Facts ¶¶ 192-94, 697, 711, 719-20), which demonstrate that the issuers' financial statements were materially misleading, *see SEC v. RPM Int'l, Inc.*, 282 F. Supp. 3d 1, 23 (D.D.C. 2017), and by Judge Carney's summary judgment order *in SEC v. Premier*, finding that Premier's financial statements were materially misleading due to the erroneous reporting of the WePower Note. (*Id.* ¶ 513.)

B. The Commission Should Impose Rule 102(e) Suspensions for Wahl, Chung, and Deutchman.

Under Section 4C of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice, Wahl, Chung, and Deutchman should be denied the privilege of appearing or practicing

before the Commission as accountants. The purpose of Rule 102 sanctions is to protect the public from future reckless or negligent conduct by professionals who practice before the Commission. 17 C.F.R. § 201.102(e)(1)(iv); *McCurdy*, 396 F.3d at 1264-65. They are also an important means for the Commission "to protect the integrity of its own processes." *Touche Ross & Co. v. SEC*, 609 F.2d 570, 582 (2d Cir. 1979). As the Second Circuit has noted, "[i]f incompetent or unethical accountants should be permitted to certify financial statements, the reliability of the disclosure process would be impaired." *Id.* at 581.

For the reasons discussed herein, including the egregiousness and repeated nature of their misconduct, Wahl and Deutchman's bars should be permanent. *See, e.g., EFP Rottenberg, LLP*, Exchange Act Release No. 78393, 2016 WL 4363837 (July 22, 2016); *John Briner, Esq.*, Securities Act Release No. 9918, 2015 WL 5472559 (Sept. 18, 2015) (settled order); *Peter Messineo, CPA*, Exchange Act Release No. 76607, 2015 WL 8478008 (Dec. 10, 2015) (settled order). Their failure to acknowledge the wrongful nature of their conduct or provide assurances against future violations also suggest a risk that they will commit future violations, if not prevented from doing so with a permanent bar. *See Aesoph*, 2016 WL 4176930, at *22-23. In addition, as to Deutchman, where, as here, "less stringent sanctions" for similar past violations have "proved to be insufficient to preclude future misconduct," a permanent bar is warranted. *See Fundamental Portfolio Advisors*, Securities Act Release No. 8251, 2003 WL 23737286 (July 15, 2003) (Commission opinion) (granting permanent bar in third SEC proceeding against respondent, finding that his "past misconduct holds out scant assurance against future violations").

With respect to Chung, the Division recommends a multi-year suspension. Respondent Richard Koch, who was the EQR on the CannaVEST's second and third quarter interim reviews,

and the EQR on the Premier 2013 audit, consented to the imposition of an Order that denied him the privilege of appearing and practicing before the Commission, with the right to reapply after two years from the date of the Order. *See Richard Koch*, Exchange Act Release No. 82207, 2017 WL 6015563 (Dec. 4, 2017). Respondent Tommy Shek, who served as the audit manager for CannaVEST's 2013 interim reviews, consented to the imposition of an Order that denied him the privilege of appearing and practicing before the Commission, with the right to reapply after one year from the date of the Order. *See Tommy Shek*, Exchange Act Release No. 83622, 2018 WL 3388553 (July 12, 2018). In light of those precedents, and Chung's adamant refusal to accept responsibility for her misconduct or to provide any assurances against future misconduct, a multi-year suspension is appropriate.

C. The Commission Should Order Wahl and Deutchman to Cease and Desist.

Under Exchange Act Section 21C(a), the Commission may enter a cease and desist order against any person who, like Wahl and Deutchman, has violated any provision of the Exchange Act, or been a cause of such a violation. Although "some risk" of future violations is required to warrant issuing a cease and desist order, "it need not be very great." *KPMG Peat Marwick*, 2001 WL 47245. "Absent evidence to the contrary, a finding of violation raises a sufficient risk of future violation." *Id.*; *see also Wendy McNeeley, CPA*, Securities Act Release No. 68431, 2012 WL 6457291, at *18 (Dec. 13, 2012) (Commission opinion) ("As the D.C. Circuit has recognized, 'the existence of a violation raises an inference that it will be repeated.'") (quoting *Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004)).

Wahl's repeated violations, dismissive behavior throughout these proceedings, and opportunity to commit future violations all weigh in favor of awarding a cease-and-desist order. *Maria T. Giesige*, Initial Decision Release No. 359, 2008 WL 4489677 (Oct. 7, 2008) (holding that factors weighing in favor of awarding a cease-and-desist order include the "recurrent nature

of the violation," and "the respondent's opportunity to commit future violations"). Similarly, Deutchman's repeated violations in Accelera's audits and reviews, as well as his repeated prior violations, weigh in favor of awarding a cease-and-desist order for him as well. *See In re Halpern*, Initial Decision Release No. 939, 2016 WL 64862 (Jan. 5, 2016) (imposing cease-and-desist order in part because "Respondents' prior violation and current occupation indicate a likelihood of future violations").

D. Wahl Should Be Ordered to Disgorge All Fees Earned In Connection with the Charged Engagements, with Prejudgment Interest.

Disgorgement is authorized in this case by Exchange Act Section 21C(e). *See* 15 U.S.C. § 78u-3(e). Disgorgement is an equitable remedy that requires a violator to give up wrongfully obtained profits causally related to the proven wrongdoing. *See SEC v. First City Fin. Corp.*, 890 F.2d 1215, 1230-32 (D.C. Cir. 1989). To determine the appropriate amount of disgorgement, the Division need only show that the amount is a reasonable approximation of the profits from the violative conduct. *See First City*, 890 F.2d at 1231.

Anton & Chia was paid a total of at least $193,253 for the Premier 2013 audit and the eight Accelera engagements.[7] Wahl controlled Anton & Chia, was its 90% owner, and he took over a million dollars in owners' distributions during the periods at issue. (Div. Facts ¶¶ 2, 940.) Accordingly, Wahl should be held liable for $193,253 of disgorgement, plus prejudgment interest running from the first day of the month after he completed the first improper audit (*i.e.*, May of 2014). *See Halpern,* 2016 WL 64862 (ordering disgorgement of full audit fees, jointly and severally for firm and the individual who controlled the firm).

[7] Anton & Chia charged $31,246 for the Premier 2013 audit (Div. Facts ¶ 401), $31,559 for the Accelera 2013 audit (*id.* ¶ 261), $12,800 for the 2014 quarterly reviews (*id.* ¶ 296), $95,148 for the 2014 audit (*id.* ¶ 375), and $22,500 for the 2015 quarterly reviews (*id.* ¶ 396). The Commission is not seeking disgorgement or civil penalties related to the CannaVEST engagement because it is purely a Rule 102(e) case.

E. Wahl and Deutchman Should Pay Civil Penalties For Their Misconduct.

The public interest would be served by requiring Wahl and Deutchman to pay significant civil penalties for their misconduct. *See* Section 21B of the Exchange Act. The Exchange Act sets out three tiers of penalties that may be imposed for "each violation" of the securities laws. *See* 15 U.S.C. § 78u(d)(3) The first tier is the base level and provides a penalty not to exceed the greater of $7,500 for an individual. *See* 17 C.F.R. § 201.1001; *see also* 17 C.F.R. Part 201 Table I to Subpart E (adjusting the amount for inflation). The second tier, which provides a maximum of $80,000, applies where the violation "involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement." *See* 15 U.S.C. § 78u(d)(3)(B)(ii); 17 C.F.R. § 201.1001 and 17 C.F.R. Part 201 Table I to Subpart E. The third (and highest) tier applies where the violation (i) "involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement," and (ii) "directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons." 15 U.S.C. § 78u(d)(3)(B)(iii). For the period at issue here, a third-tier penalty is $160,000. *See* 17 C.F.R. § 201.1001 and 17 C.F.R. Part 201 Table I to Subpart E.

Here, third-tier penalties are appropriate for Wahl and Deutchman. As set forth above, they acted fraudulently and recklessly disregarded multiple PCAOB requirements. *See supra* §§ I(A) & (C). The material overstatement of Premier and Accelera's financial statements posed a significant risk of substantial losses to investors. The Commission has multiple options for calculating the number of individual violations for assessing the total penalty,[8] including assessing a third-tier penalty for each engagement (resulting in $1.44 million for Wahl and

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[8] *See J.S. Oliver Capital Mgmt., LP*, Securities Act Release No. 10100, 2016 WL 3361166, at *15 (June 17, 2016) (Commission opinion) (considerable flexibility exists in calculating number of violations for determining amount of civil penalty).

$800,000 for Deutchman), or even assessing a penalty for each of Respondents' scores of PCAOB violations. Instead, the Division proposes a more conservative interpretation, applying a single third-tier penalty for each respondent, for each issuer, which would result in a $320,000 penalty for Wahl and $160,000 for Deutchman.

The amount of any civil penalty is committed to the discretion of the Court, based on the "facts and circumstances" of the case. *See* 15 U.S.C. § 78u(d)(3)(B)(i). Here, Wahl and Deutchman's multiple violations; the use of fraud, deceit, and/or deliberate recklessness of the regulatory requirements; and (for Deutchman) the prior findings against him by the Commission and the PCAOB, all weigh in favor of substantial penalties. In addition, substantial civil penalties here would provide important deterrence to other auditors from committing similar acts and omissions. "The Commission and the investing public rely heavily on accountants to assure disclosure of accurate and reliable financial information as required by the federal securities laws." *Marrie*, 2003 WL 21741785, at *8. When, as here, auditors shirk their responsibilities and simply rubber-stamp an issuer's financial statements, not only do they bypass an opportunity to provide that essential gatekeeping function, but they also provide a false comfort to innocent investors. Accordingly, deterrence here is critical to the public interest.

CONCLUSION

The Division of Enforcement respectfully requests that the Court find that Respondents Wahl, Deutchman, and Chung engaged in the violations described in the Division's Order Instituting Proceedings and impose appropriate sanctions.

Dated: March 2, 2020

Respectfully submitted,

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-18292

In the Matter of **Anton & Chia, LLP,** **Gregory A. Wahl, CPA,** **Michael Deutchman, CPA,** **Georgia Chung, CPA, and** **Tommy Shek, CPA,** **Respondents.**	**CERTIFICATE OF COMPLIANCE**

I certify the Division of Enforcement's Post-Hearing Brief contains less than 15,000 words. According to Microsoft Word 2016, there are a total of 14,960 words, inclusive of headings, footnotes, and quotations.

Dated: March 2, 2020

/s/ Alyssa A. Qualls
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In accordance with Rule 150 of the Commission's Rules of Practice, Alyssa A. Qualls, an attorney, hereby certifies that on March 2, 2020, she caused true and correct copies of the Division of Enforcement's Post-Hearing Brief to be served on the following via email:

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