

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 52257 / August 15, 2005

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2290 / August 15, 2005

ADMINISTRATIVE PROCEEDING
File No. 3-12012

In the Matter of

MARGARET M. EARDLEY,

Respondent.

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

I.

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

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over her and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 21C of the Securities Exchange Act of 1934 (“Order”), as set forth below.

III.

The Commission makes the following findings:¹

A. **RESPONDENT**

Margaret M. Eardley (“Eardley”), 36, was Vice President of Finance and Chief Financial Officer of First American Health Concepts, Inc. (“FAHC” or the “Company”) from October 1998 to March 2000.

B. **RELEVANT ENTITY**

First American Health Concepts, Inc. was an incorporated company headquartered in Phoenix, Arizona. Its common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on the American Stock Exchange. As of January 31, 2001, FAHC had 2,635,691 shares of common stock outstanding. In 2001, Luxottica Group, S.p.A., an Italian company, acquired FAHC. Eardley never owned stock in the Company.

C. **FACTS**

1. **FAHC’s False Filing**

In its Annual Report on Form 10-KSB for the fiscal year ending on July 31, 1999, filed October 29, 1999, FAHC reported accounts receivable of \$2.4 million and pretax income of \$693,000. On July 24, 2000, approximately four months after Eardley’s voluntary resignation, KPMG LLP (“KPMG”) resigned as FAHC’s independent auditors and was replaced by Pannell Kerr Forster PC (“PKF”) for the fiscal 2000 audit. During that audit, PKF discovered that FAHC’s accounts receivable had not been reconciled for years.² PKF’s audit of the receivables showed that, as of July 31, 1999, FAHC’s reported accounts receivable were overstated by \$892,000 and

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

² During 1998 or earlier (prior to Eardley’s employment), FAHC installed a data processing system for its accounts receivable and revenue reporting. The data processing system was not integrated to its general ledger and required manual intervention for certain transactions. Due to problems with the system, errors occurred which prevented certain transactions affecting individual accounts receivable from flowing through to the general ledger. As a result, the general ledger receivable balances, which were the basis for the preparation of FAHC’s financial statements, were not in agreement with the detail accounts receivable records. In addition, due to a computer malfunction before Eardley’s employment with FAHC, the sub-ledger data for the calendar year ended December 31, 1997 was completely lost. There were no hard copies and no back-up of the data. Instead of the year-end 1997 balances rolling forward to January 1998, those balances reverted back to 1996.

that FAHC's 1999 reported \$693,000 pre-tax income should have been a reported loss of \$199,000. PKF's audit triggered a restatement (filed with the Commission December 20, 2000) that revised FAHC's fiscal 1999 pre-tax income accordingly.

2. Eardley Signed the False and Misleading 1999 10-KSB

Within a week of being hired in October 1998, as FAHC's Chief Financial Officer, Eardley discovered the company's accounts receivable problem, alerted the Chairman of the Board to the problem and requested the resources and support necessary to address the problem. But Behrmann directed Eardley to focus on other projects unrelated to the accounts receivable problem and Eardley complied.³ She took some steps to determine the magnitude of the overstatement but she never compared the general ledger accounts receivable balance to the total of the subsidiary ledger accounts – a simple procedure that would have revealed the magnitude of the unreconciled difference. Eardley took no further steps to rectify what she knew to be a serious accounting problem. One year later, having taken no further action with respect to the receivables issue, Eardley signed the 1999 Form 10-KSB disregarding that the financial statements included were false and misleading.⁴

Eardley cooperated during the investigation. There is no evidence that she benefited financially from signing FAHC's false 1999 10-KSB, although if she had refused to do so she may have endangered her employment with FAHC.

D. LEGAL ANALYSIS

Section 13(b)(2)(A) of the Exchange Act requires issuers to “make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer.” Section 13(b)(2)(B) of the Exchange Act requires issuers to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP and to maintain the accountability of assets. Section 13(b)(5) of the Exchange Act prohibits any person from knowingly circumventing or knowingly failing to implement a system of internal accounting controls or knowingly falsifying any book, record, or account required to be made and kept by Section 13(b)(2) of the Exchange Act. Eardley violated Exchange Act Section 13(b)(5) and caused FAHC to violate Exchange Act

³ Simultaneously with the issuance of this Order, the Commission filed a settled civil action in the United States District Court for the District of Columbia against FAHC's Chairman of the Board, John Behrmann, for his role in these events. Pursuant to that settlement, Behrmann has agreed to pay a civil penalty in the amount of \$75,000 and to the entry of an order permanently enjoining him from violations of certain securities laws and permanently barring him from serving as an officer or director.

⁴ Simultaneously with the issuance of this Order, the Commission filed a settled civil complaint against Eardley in the United States District Court for the District of Columbia. Pursuant to that settlement, Eardley has agreed to pay a civil penalty in the amount of \$25,000.

Sections 13(b)(2)(A) and 13(b)(2)(B) in 1999 by failing to maintain sufficient internal accounting controls and by failing to reconcile FAHC's accounts receivable in 1999.

Section 13(a) of the Exchange Act and Rule 13a-1 thereunder requires all issuers with securities registered under Section 12 of the Exchange Act to file annual reports on Form 10-K. Exchange Act Rule 12b-20 further requires that, in addition to the information expressly required to be included in such reports, an issuer must include such additional material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading. Rule 13a-1 requires the filing of annual reports that comply with the Commission's Regulation S-X, which requires that financial statements be presented in conformity with GAAP. Eardley caused FAHC's violation of Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-1 thereunder by signing FAHC's 1999 Form 10-K which incorporated materially false and misleading financial statements.

IV.

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

Accordingly, it is hereby ORDERED that:

Pursuant to Section 21C of the Exchange Act, Respondent Eardley shall cease and desist from committing or causing any violation and any future violation of Section 13(b)(5) of the Exchange Act; and from causing any violation and any future violation of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20 and 13a-1 thereunder.

By the Commission.

Jonathan G. Katz
Secretary