

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 52258 / August 15, 2005

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2291 / August 15, 2005

ADMINISTRATIVE PROCEEDING
File No. 3-12013

In the Matter of

JOHN V. BACK, Jr., CPA,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO RULE 102(e) OF THE
COMMISSION'S RULES OF PRACTICE,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted against John V. Back, Jr. ("Respondent" or "Back") pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.¹

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

¹ Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, Respondent consents to the entry of this Order Instituting Public Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds² that:

1. John V. Back, Jr., 54, a certified public accountant formerly licensed in Arizona,³ was a KPMG LLP ("KPMG") audit partner in charge of KPMG's fiscal 1999 audit of First American Health Concepts, Inc. ("FAHC"). Back served as audit engagement partner for KPMG audits of FAHC's financial statements for fiscal years 1993 through 1999, as originally filed with the Commission, and issued unqualified reports thereon. Back retired from KPMG in June 2002.

2. FAHC was an Arizona corporation headquartered in Phoenix with common stock registered with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934 and listed on the American Stock Exchange. As of January 31, 2001, FAHC had 2,635,691 shares of common stock outstanding. FAHC marketed and administered vision care programs including programs underwritten by various insurance carriers. In 2001, Luxottica Group S.p.A., an Italian company, acquired FAHC. FAHC is no longer a public company.

3. FAHC materially overstated its assets and net income in reports filed with the Commission for its 1999 fiscal year by significantly overstating its accounts receivable. In its 1999 10-K, filed October 29, 1999, FAHC reported accounts receivable of \$2.4 million and pretax income of \$693,000.⁴ According to a restatement FAHC filed on December 20, 2000, the receivables were overstated by approximately \$892,000 and, but for the overstatement, FAHC's fiscal 1999 pre-tax income would have been a loss of \$199,000.

4. Back was the KPMG audit engagement partner responsible for the July 31, 1999 audit of FAHC. He was also the audit engagement partner for the KPMG audit work for a June 6, 2000 restatement of FAHC's 1999 financial statements. That restatement failed to correct the overstatement of accounts receivable; the correction was not made until after KPMG resigned on July 24, 2000 and was replaced by Pannell Kerr Forster ("PKF") who performed the fiscal 2000 audit. PKF's discovery of the overstated accounts receivable resulted in the FAHC December 20, 2000 restatement.

² 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.

³ On August 15, 2003, the Arizona State Board of Accountancy and Back entered into a decision and order, by consent, by which Back relinquished his certificate to practice as a certified public accountant.

⁴ FAHC operated with a July 31 fiscal year end.

5. In October 1998, KPMG issued a “management letter” to FAHC that described “the lack of timely reconciliations between the accounts receivable subsidiary ledgers and the general ledger” as the most significant problem noted during the fiscal 1998 audit. When he supervised the 1999 audit, Back knew, or should have known, that the problem had not been corrected, that reconciliations had not been performed and that the total of individual accounts did not agree with the general ledger balance. Neither Back nor anyone he supervised reconciled the receivables, determined the amount of the unreconciled difference, or secured independent confirmation of individual accounts receivable balances to determine the extent of errors, in accordance with generally accepted auditing standards (“GAAS”).

6. Back knew, or should have known, that when KPMG issued its audit report on FAHC’s 1999 fiscal year, FAHC’s accounts receivable balances should have been reconciled for two years. Yet he falsely represented that KPMG’s audit had been performed in accordance with GAAS and that FAHC’s financials complied with generally accepted accounting principles.

7. In the fall of 1999, Back was replaced as the FAHC audit engagement partner pursuant to KPMG’s seven-year partner rotation policy. The new audit engagement and concurring review partners discovered several apparently unintentional accounting errors that required a restatement of the 1999 financial statements. Back was assigned audit engagement partner responsibility for the restatement. However, in auditing the restatement, Back again failed to reconcile the accounts receivable balances in accordance with GAAS.

8. Based on the foregoing, the Commission finds that Back engaged in improper professional conduct pursuant to Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.

IV.

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

Accordingly, it is hereby ORDERED, effective immediately, that John V. Back, Jr. is denied the privilege of appearing or practicing before the Commission as an accountant.

By the Commission.

Jonathan G. Katz
Secretary