

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 56405 / September 13, 2007

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2685 / September 13, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12766

In the Matter of

Charles J. Birnberg, CPA,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTIONS 4C AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934
AND RULE 102(e) OF THE
COMMISSION'S RULES OF PRACTICE,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Charles J. Birnberg, CPA (“Respondent” or “Birnberg”) pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice.²

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

² Rule 102(e)(1)(iii) provides, in relevant part, that:

The Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found . . . to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds³ that:

A. RESPONDENT

Charles J. Birnberg, CPA, 65, of West Paterson, New Jersey, is a certified public accountant licensed in the state of New Jersey since 1981 and doing business as a sole proprietorship. Birnberg audited Renewal Fuels, Inc.’s (“Renewal Fuels”) financial statements for the company’s 2003 fiscal year ended December 31, 2003. Renewal Fuels dismissed Birnberg as its independent auditor on October 1, 2004.

B. FACTS

1. Renewal Fuels (known as Tech Laboratories, Inc. during the relevant period) is a Delaware corporation with its headquarters in Milwaukee, Wisconsin. Renewal Fuels’s common stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act and trades on the OTC Bulletin Board under the symbol RNWF. For its fiscal year ended December 31, 2003, Renewal Fuels reported revenues of \$236,000 and total assets of \$1.75 million.

2. Renewal Fuels has at all relevant times been an issuer as defined by the Sarbanes-Oxley Act of 2002 (the “Act”).

3. Birnberg audited Renewal Fuels’s 2003 financial statements included in Renewal Fuels’s annual report for fiscal year 2003 on Form 10-KSB, filed with the Commission on April 14, 2004. As part of that audit, Birnberg prepared and issued an audit report dated April 14, 2004 (the “Renewal Fuels audit report”), which the company included in its 2003 Form 10-KSB. Renewal Fuels paid Birnberg \$10,000 for the audit work.⁴

³ 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.

⁴ During the course of the Commission’s investigation, Birnberg voluntarily reimbursed Renewal Fuels \$4,200 of the \$10,000 in audit fees through a combination of repayment and the provision of non-audit or other services to Renewal Fuels. In view of Birnberg’s \$4,200 reimbursement, the Commission is only ordering

4. At the time Birnberg prepared and issued the Renewal Fuels audit report, he was not registered with the Public Company Accounting Oversight Board (the “Board”), as required by Section 102(a) of the Act.

C. VIOLATIONS

1. Section 102(a) of the Act provides that “it shall be unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer.”⁵

2. The provisions of Section 102(a) of the Act became effective on October 22, 2003.⁶

3. Based on the conduct described above, Respondent willfully⁷ violated Section 102(a) of the Act.

D. FINDINGS

Based on the foregoing, the Commission finds that Birnberg willfully violated Section 102(a) of the Sarbanes-Oxley Act of 2002.

E. UNDERTAKING

Respondent has undertaken not to request, demand, or accept, directly or indirectly, any compensation from Renewal Fuels in connection with the audit work associated with the Renewal Fuels audit report. In determining whether to accept the Offer, the Commission has considered this undertaking.

disbursement in the amount of \$5,800, plus prejudgment interest, to cover the balance of audit fees Birnberg received.

⁵ A violation of the Act or any rule that the Board issues under the Act is treated for all purposes in the same manner as a violation of the Exchange Act, including with respect to penalties. Sarbanes-Oxley Act of 2002, 15 U.S.C.A. § 7202(b)(1) (West 2002).

⁶ Section 102(a) became effective “[b]eginning 180 days after the date of the determination of the Commission under Section 101(d)” of the Act that the Board was prepared to undertake its statutory responsibilities. The Commission made the required determination on April 25, 2003. See Order Regarding Section 101(d) of the Sarbanes-Oxley Act of 2002, Securities Act Release No. 8223, Exchange Act Release No. 47746, 2003 WL 1956164 (Apr. 25, 2003).

⁷ “Willfully” as used in this Order means intentionally committing the act that constitutes the violation. There is no requirement that the actor also be aware that he is violating a rule or statute. See Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000); Tager v. SEC, 344 F.2d 5, 8 (2d Cir. 1965).

IV.

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

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

A. Birnberg shall cease and desist from committing or causing any violations and any future violations of Section 102(a) of the Act.

B. Birnberg is censured.

C. Birnberg may practice before the Commission as an independent accountant provided that:

1. The public accounting firm with which he is associated is registered with the Board in accordance with the Act, and such registration continues to be effective; and

2. He has submitted to the Commission staff (attention: Office of the Chief Accountant) the Board's letter notifying the public accounting firm with which he is associated that its registration application has been approved.

D. IT IS FURTHER ORDERED that Respondent shall, within 10 days of the entry of this Order, pay disgorgement of \$5,800 and prejudgment interest of \$521.38 to the Securities and Exchange Commission. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check, or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Charles J. Birnberg as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Christopher Conte, Division of Enforcement, Securities and Exchange Commission, 100 F Street N.E., Washington, D.C. 20549.

By the Commission.

Nancy M. Morris
Secretary