

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 56412 / September 13, 2007

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2692 / September 13, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12773

In the Matter of

Harvey S. Weingard, 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 Harvey S. Weingard, CPA (“Respondent” or “Weingard”) 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

Harvey S. Weingard, CPA, 73, of Boynton Beach, Florida, is a certified public accountant licensed in the state of Florida since 2002 and doing business as a sole proprietorship. Weingard audited The Furia Organization, Inc.’s (“Furia”) financial statements for the company’s 2003 and 2004 fiscal years ended June 30, 2003, and June 30, 2004, respectively.

B. FACTS

1. Furia is a Delaware corporation with its headquarters in Rockwall, Texas. For its fiscal years ended June 30, 2003, and June 30, 2004, Furia had no revenues and no assets.

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

3. Weingard audited Furia’s 2003 financial statements included in Furia’s annual report for fiscal year 2003 on Form 10-KSB, filed with the Commission on July 6, 2004. As part of that audit, Weingard prepared and issued an audit report dated June 30, 2004, which the company included in its 2003 Form 10-KSB. Furia paid Weingard \$3,000 for the audit work.

4. Weingard also audited Furia’s 2004 financial statements included in Furia’s annual report for fiscal year 2004 on Form 10-KSB, filed with the Commission on October 21, 2004. As part of that audit, Weingard prepared and issued an audit report dated October 13, 2004 (together with the June 30, 2004 audit report, the “Furia audit reports”), which the company included in its

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.

2004 Form 10-KSB. Furia paid Weingard \$5,000 for the audit work.⁴

5. At the time Weingard prepared and issued the Furia audit reports, he was not registered with the Public Company Accounting Oversight Board (the “Board”), as required by Section 102(a) of the Act.

6. By order dated April 18, 2005, the Board disapproved an application for registration submitted by Weingard based in part on Weingard’s violation of Section 102(a) of the Act in issuing the Furia audit reports.⁵ The order effectively prevented Weingard from becoming registered with the Board until after February 15, 2006, approximately one year from the date the Board issued a notice of hearing on Weingard’s application.⁶ Weingard has only worked as an accountant through his sole proprietorship and has not otherwise been associated with a public accounting firm registered with the Board.

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.”⁷

2. The provisions of Section 102(a) of the Act became effective on October 22, 2003.⁸

3. Based on the conduct described above, Respondent willfully⁹ violated Section 102(a) of the Act.

⁴ During the course of the Commission’s investigation, Weingard voluntarily reimbursed Furia the \$8,000 in audit fees through a combination of repayment and the provision of non-audit services to Furia. In view of Weingard’s reimbursement, the Commission is not ordering disgorgement in this matter.

⁵ PCAOB Release No. 2005-004 (Apr. 18, 2005). The order also found that Weingard’s issuance of the Furia audit reports violated Board Rule 2100, which implemented Section 102(a) of the Act.

⁶ The order states that with respect to any new registration application Weingard submits after February 15, 2006, the Board will not issue a notice of hearing to determine whether to approve or disapprove such application based solely on the violations subject to the Board’s order. Id.

⁷ 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).

⁸ 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).

⁹ “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).

D. FINDINGS

Based on the foregoing, the Commission finds that Weingard 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 Furia in connection with the audit work associated with the Furia audit reports. In determining whether to accept the Offer, the Commission has considered this undertaking.

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

B. Weingard is censured.

C. Weingard 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.

By the Commission.

Nancy M. Morris
Secretary