

**UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934
Release No. 60181 / June 26, 2009**

**ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3002 / June 26, 2009**

**ADMINISTRATIVE PROCEEDING
File No. 3-13529**

In the Matter of

WARREN B. SCHMIDGALL,

Respondent.

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**ORDER INSTITUTING 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 Warren B. Schmidgall (“Respondent” or “Schmidgall”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.¹

¹ Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

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 him and the subject matter of these proceedings, and the findings contained in Section III.3. below, which are admitted, Respondent consents to the entry of this Order Instituting 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 finds that:

1. Schmidgall, age 58, is a resident of Oakbrook Terrace, IL 60181. Schmidgall served as chief financial officer of American Italian Pasta Company (“AIPC”) from November 1998 until August 2004. Schmidgall also served as an executive vice president of AIPC from September 2004 until September 2005, when he left the company. Schmidgall passed the Uniform Certified Public Accountant (“CPA”) exam and has held a CPA certificate from Illinois since 1980, but has never held a CPA license.

2. At all relevant times, AIPC was a Delaware corporation with its principal place of business in Kansas City, Missouri. AIPC is a producer and marketer of dry pasta. At all relevant times, AIPC’s common stock was registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 (“Exchange Act”). The company filed annual, quarterly, and current reports with the Commission on Forms 10-K, 10-Q, and 8-K, respectively. AIPC stock was traded on the New York Stock Exchange (“NYSE”) until December 20, 2006, when the NYSE suspended trading based on AIPC’s failure to keep current its Commission filings. The NYSE filed a Form 25 on April 23, 2007 and, as a result, AIPC’s common stock was deregistered from Section 12(b) effective April 23, 2007. In June 2008, AIPC filed the quarterly and annual reports that it had failed to timely file and has been current in its filings with the Commission since that time.

3. On October 22, 2008, the Commission filed its amended complaint against Schmidgall in United States District Court for the Western District of Missouri (Civil Action No. 4:08-cv-0067). On June 22, 2009, the court entered an order permanently enjoining Schmidgall, by consent, from future violations of Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14, 13b2-1, and 13b2-2 thereunder, and from aiding and abetting violations of Sections 13(a) and 13(b)(2) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder. The court further ordered that Schmidgall pay \$28,500 in disgorgement; \$9,788 in prejudgment interest; and a \$100,000 civil money penalty. The court further ordered that Schmidgall be barred from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

4. The Commission's amended complaint alleged, among other things, that Schmidgall and others at AIPC engaged in a fraudulent scheme that hid from the investing public the true financial state of the company by filing materially false and misleading statements in the company's annual reports on Forms 10-K, quarterly reports on Forms 10-Q, and current reports on Forms 8-K for AIPC's fiscal years 2002, 2003, and 2004. The complaint alleged that to meet aggressive external targets, Schmidgall and others engaged in numerous fraudulent accounting practices that departed from generally accepted accounting principles ("GAAP"), including, among other things, capitalizing improperly millions of dollars of normal operating costs; understating improperly millions of dollars of trade promotion expenses; overstating improperly by millions of dollars the company's spare parts inventory; recognizing improperly millions of dollars of current period revenue on sales of products that were not shipped until after the end of the current periods; structuring round-trip cash transactions; eliminating improperly the company's vacation and paid time off liability; failing improperly to expense operating costs; and failing improperly to expense manufacturing variances.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Schmidgall's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that Schmidgall is suspended from appearing or practicing before the Commission as an accountant.

By the Commission.

Elizabeth M. Murphy
Secretary