

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 53380 / February 27, 2006**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 2385 / February 27, 2006**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12220**

<p><b>In the Matter of</b></p> <p><b>GREGORY G. NELSON, CPA,</b></p> <p><b>Respondent.</b></p>
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**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 that public administrative proceedings be, and hereby are, instituted against Gregory G. Nelson, CPA ("Respondent" or "Nelson") pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.<sup>1</sup>

**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, which are admitted, 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.

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<sup>1</sup> 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.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>2</sup> that:

#### A. RESPONDENT

**Gregory G. Nelson**, a certified public accountant in Michigan from 1973 until his license expired on December 31, 2003, was a partner in the Detroit office of PricewaterhouseCoopers LLP ("PwC"). He is currently retired. From 1997 to June 2002, the date of his retirement from PwC, Nelson was the engagement partner on PwC's audits of Sun Communities, Inc.

#### B. ISSUERS

**Sun Communities, Inc.** ("Sun") is a self-administered and self-managed real estate investment trust. Sun, as the general partner of Sun Communities Operating Limited Partnership ("SCOLP"), owns, operates, develops and finances manufactured housing communities concentrated in the Midwestern and Southeastern United States. Sun went public in 1993 and is listed on the New York Stock Exchange. In 1999, a subsidiary of SCOLP (Sun/Forest, LLC) formed a joint venture with MHCDC, LLC, a subsidiary of Champion Enterprises ("Champion"); the joint venture was called SunChamp, LLC ("SunChamp").

**Sun Communities Operating Limited Partnership** is the main operating subsidiary through which Sun owns, operates, develops and finances manufactured housing communities concentrated in the Midwestern and Southeastern United States. SCOLP was a separate filer with the Commission until May 2004. Sun consolidated SCOLP's financial statements within its own financial statements during the time at issue in this proceeding.

#### C. SUN'S FALSE FINANCIAL STATEMENTS

Sun's financial statements for the years ended December 31, 2000 and 2001 and the quarter ended March 31, 2002 were materially inaccurate and were not in accordance with Generally Accepted Accounting Principles ("GAAP") because Sun failed to properly account for its interest in SunChamp.

##### 1. Sun Failed to Account Properly for its Investment in SunChamp

Beginning in 1999, SunChamp was formed to purchase land for development and to develop manufactured housing communities. Pursuant to the terms of the agreement, Sun had and retains significant rights as to SunChamp, which resulted in Sun having the ability to exercise significant influence over SunChamp.

Beginning in the third quarter of 2000, SCOLP transferred portions of its SunChamp ownership to outside investors in an attempt to reduce its ownership below 20% and thereby avoid

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<sup>2</sup> 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.

recording SunChamp losses in its financial statements. The consideration received from the outside investors consisted of cash in excess of \$7 million and, in most instances, non-recourse notes totaling \$6 million. After recognizing the transfers of SunChamp ownership to the outside investors, Sun determined that it owned less than 20% of SunChamp and did not record any of SunChamp's operating losses during Q3 2000, Q4 2000 and 2001. As Nelson informed Sun at the time, this determination was not supported by GAAP.

The outside investor transactions were structured in such a way that the full risks and rewards of ownership did not transfer to the investors. Therefore, the transactions did not constitute "sales" under GAAP. Although Sun maintained significant influence over SunChamp, Sun failed to apply equity method accounting during 2000 and 2001. Proper application of equity method accounting required that Sun record its allocable share of SunChamp's losses. Sun's incorrect determination to not record its share of SunChamp's losses led Sun to materially overstate its income in 2000 and 2001. In 2002, Sun made additional capital contributions to SunChamp that Sun believed increased its ownership to greater than 20% of SunChamp. Beginning in Q1 2002 Sun applied equity method accounting for its interest in SunChamp. During that quarter, however, Sun continued to improperly account for the SunChamp investment by, among other things, failing to recognize its entire share of the SunChamp losses as required under GAAP.

During PwC's 2000 and 2001 audits, Nelson correctly concluded that Sun's accounting for SunChamp did not comply with GAAP and thus proposed that Sun record adjusting entries to account for Sun's share of the SunChamp losses under the equity method of accounting. After management refused to make the adjustments, Nelson incorrectly concluded that the adjustments were immaterial to Sun's financial statements. Nelson failed to review and objectively evaluate the documents underlying the engagement team's materiality analysis. Specifically, he failed to review the outside investor transactions to determine whether Sun transferred the risks and rewards of ownership in SunChamp. The documents for these transactions were provided to the PwC engagement team. Because of Nelson's lack of review and objective evaluation of the documents, he did not see that: (1) the transfers were funded, in part, by non-recourse notes that did not require principal or interest payments to be made, (2) the operating agreement contained a put option, and (3) the agreements contained a prohibition against pledging or selling the alleged interest and did not contain a requirement that the outside investors fund additional capital contributions. The terms of these notes preclude accounting for these transactions as sales under Statement of Financial Accounting Standards No. 66. Thus, the engagement team's materiality analysis -- which was based on the conclusion that the transactions with the outside investors were sales -- was invalidated. Instead, Nelson substantially relied on oral representations from Sun's Chief Financial Officer ("CFO") describing the SunChamp transactions and Nelson failed to apply the auditing procedures necessary to provide a reasonable basis for an opinion.

2. Sun Also Failed to Comply with Other GAAP During Nelson's Tenure as Engagement Partner.

a. Accounting for Transactions with Retroactive Effective Dates

During 2000 and 2001, Sun accounted for transactions with three outside investors retroactively, using effective dates reflecting the dates on which oral purchase and sales agreements supposedly occurred. The effective dates were months before the agreements were finalized, the papers were signed, or money changed hands. Sun considered the transactions effective at the time of the supposed oral agreements, despite having neither a contemporaneous written record of the transactions, nor a down payment. Accounting for these transactions before they were finalized had the effect of reducing Sun's perceived ownership percentage in SunChamp prematurely in several quarters. Sun thereby reduced its perceived ownership below 20% and consequently believed that it could avoid equity method accounting and was not required to record any SunChamp losses in those quarters.

Nelson accepted the representations of the CFO as to the closing dates on the agreements with outside investors and never inspected the underlying documents. He failed to properly review the agreements and to corroborate the representations of the CFO, which would have resulted in the discovery that the agreements were not completed as of the time they were made effective in Sun's financial statements.

b. 90-Day Lag

During 2000 and the first quarter of 2002, Sun delayed recording SunChamp's losses for 90 days. Sun justified its use of a 90-day lag on the grounds that Sun did not timely receive SunChamp's financial statements from a Champion subsidiary that maintained the SunChamp accounting records. However, contrary to Sun's assertions, Sun could have timely recorded the SunChamp losses without any lag, as evidenced by the fact that Champion, using the same SunChamp financial statement results, timely reported its share of SunChamp's results.

Nelson told Sun that the SEC was generally opposed to reporting on a lag because of its interest in real time reporting. Nonetheless, Nelson relied exclusively on representations from Sun's management, and failed to take additional steps to obtain competent evidential matter to determine whether Sun's application of a 90-day lag was factually justified and supportable under GAAP. In fact, Sun's application of a 90-day lag was not supportable under GAAP. Corroboration by Nelson of management's assertion would have revealed that Sun received the SunChamp financial statements sufficiently early to timely report SunChamp's results without any lag.

#### **D. IMPROPER PROFESSIONAL CONDUCT**

In connection with PwC's audits of Sun's 2000 and 2001 year end financial statements and a review of Sun's Q1 2002 financial statements, Nelson failed to meet several professional standards outlined in the Codification of Statements on Auditing Standards ("AU"). Nelson failed to exercise due professional care in performing the Sun audits and preparing the audit reports as required by AU § 150.02. Nelson also failed to obtain sufficient competent evidential matter through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an audit opinion regarding the financial statements under audit. AU § 150.02.

Representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit. AU § 333.02. Nelson accepted the uncorroborated representations of Sun's CFO as to the structure of the SunChamp transactions with outside investors and the effective dates on those transactions, and failed to review the underlying documents. Had Nelson properly reviewed the transactions and appropriately corroborated their supposed effective dates, he would have discovered that: 1) the structure of the transactions precluded the transfer of the full risks and rewards of ownership, 2) the transactions were not completed as of the time they were recorded by Sun, and 3) the engagement team's materiality analyses were invalid. Nelson also relied exclusively on statements from Sun's management to determine whether Sun's application of a 90-day lag was factually justified and supportable under GAAP. Nelson failed to adequately corroborate management's representations and consequently failed to discover that Sun did not have a supportable basis on which to report SunChamp's losses on a lag.

In conducting an audit, an auditor is required to state in the auditor's report whether the financial statements are presented in conformity with GAAP and the audit was conducted in accordance with GAAS. AU § 410, 411 and 508.07. Nelson caused PwC to render unqualified audit reports on the 2000 and 2001 financial statements included in Sun's annual reports on Form 10-K for fiscal years 2000 and 2001. As described in this Order, however, PwC's audits of Sun's 2000 and 2001 year-end financial statements and review of Sun's financial statements for the first quarter of 2002 were not conducted in accordance with GAAS, and the financial statements were not prepared in conformity with GAAP.

#### **E. FINDINGS**

Based on the foregoing, the Commission finds that, in connection with the 2000 and 2001 audits and the 2002 review of financial statements of Sun, Nelson engaged in improper professional conduct (as defined by Rule 102(e)(1)(iv)(B)(2) of the Commission's Rules of Practice) 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 sanctions agreed to in Respondent Nelson's Offer.

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

A. Nelson is denied the privilege of appearing or practicing before the Commission as an accountant.

B. After two years from the date of this order, Respondent may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his/her practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

(a) Respondent, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

(b) Respondent, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;

(c) Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

(d) Respondent acknowledges his responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

C. The Commission will consider an application by Respondent to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependant on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent's

character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Nancy M. Morris  
Secretary