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Respondents.

December 13, 2017

1.

11.

² Willner may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

ORDER

Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.³

III.

On the basis of Respondents' Offers, the Board finds that:⁴

A. Respondents

1. Peter D. Willner, CPA is a sole proprietorship organized under the laws of the state of New York with headquarters in Saddle River, New Jersey. The Firm is not licensed. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was the external auditor for the two broker-dealers identified below.

2. Peter Willner, CPA, age 73, of Saddle River, New Jersey is a certified public accountant licensed under the laws of the State of New York (License No. 31225). He is the sole owner of the Firm and was the engagement partner on the audits and reviews at issue herein. He is, and at all relevant times was, an "associated person of a registered public accounting firm" as that phrase is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. This matter concerns the Firm's violations of Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), in connection with six audits and reviews for two broker-dealer audit clients.⁵ The violations arise from the Firm's failure to obtain

³ The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

⁴ The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

⁵ All references to PCAOB standards and rules are to the versions of those standards and rules in effect at the time of the relevant audits and reviews. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical

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engagement quality reviews and concurring approvals of issuance in connection with the Firm's audits of the 2014, 2015, and 2016 financial statements and accompanying supplemental information ("Audits") of Trade Manage Capital, Inc. ("Trade Manage Capital") and Bettinger & Leech Financial Corp. ("Bettinger & Leech"). The violations also arise from the Firm's failure to obtain engagement quality reviews and concurring approvals of issuance in connection with the Firm's reviews of the statements made in exemption reports ("Exemption Report Reviews") prepared by Trade Manage Capital for 2014, 2015, and 2016, and Bettinger & Leech for 2015.

4. In addition, Willner violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, because he took actions that he knew, or was reckless in not knowing, would directly and substantially contribute to the Firm's violations of AS 7.

5. This matter also concerns Respondents' violations of Auditing Standard No. 3, *Audit Documentation* ("AS 3"), in connection with the Audits and Exemption Report Reviews. These violations arise from Respondents' failures to prepare and retain audit documentation containing sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed and conclusions reached. In addition, they arise from Respondents' failures to document any audit planning or risk assessment procedures and responses to risks of misstatement, and prepare an engagement completion document.

C. Respondents Violated PCAOB Rules and Standards

6. In connection with the preparation or issuance of an audit or review report for a broker-dealer, PCAOB rules require a registered public accounting firm and its associated persons to comply with the Board's auditing and related professional practice standards.⁶

structure and a single, integrated numbering system. Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017), <https://pcaobus.org/Standards/Auditing/Documents/ReorganizedandPreReorganizedNumbering.pdf>.

⁶ PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*; 3200T, *Interim Auditing Standards*.

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7. AS 7 requires an engagement quality review and concurring approval of issuance in connection with an audit engagement conducted pursuant to PCAOB standards.⁷ It also requires an engagement quality review and concurring approval of issuance in connection with an attestation engagement performed pursuant to Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers* ("AT 2"),⁸ to review the statements made by a broker-dealer in an exemption report ("Exemption Report") prepared pursuant to Securities and Exchange Act of 1934 Rule ("Exchange Act Rule") 17a-5, 17 C.F.R. § 240.17a-5. AS 7 provides further that a firm may grant permission to a client to use the engagement reports from such audits and reviews only after an engagement quality reviewer provides concurring approval of issuance.⁹

8. AS 3 requires an auditor to prepare and retain audit documentation in connection with each engagement conducted pursuant to PCAOB standards.¹⁰ Audit documentation includes records of the planning and performance of the engagement,¹¹ and should be prepared in sufficient detail to provide a clear understanding of its purpose, its source, and the conclusions reached.¹² The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.¹³ The audit documentation must clearly demonstrate that the work was in fact performed, and contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed,

⁷ AS 7 ¶ 1.

⁸ Id.

⁹ Id. ¶¶ 13, 18C.

¹⁰ AS 3 ¶¶ 4, 14.

¹¹ Id. ¶ 2.

¹² Id. ¶ 4.

¹³ Id. ¶ 6. See also id. n.2 ("In an engagement conducted pursuant to [AT 2] the relevant assertions are the assertions expressed by management or the responsible party regarding the subject matter of the attestation engagement. The documentation requirements in this standard regarding assertions apply to the aspects of the subject matter to which the assertions relate.").

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evidence obtained and conclusions reached.¹⁴ In addition, the auditor must identify all significant findings or issues in an engagement completion document.¹⁵

9. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the U.S. Securities and Exchange Commission ("Commission") issued under the Act, or professional standards.

10. As described below, Respondents failed to comply with these PCAOB rules and standards.

The Trade Manage Capital 2014-2016 Audits and Exemption Report Reviews

11. At all relevant times, Trade Manage Capital was a broker-dealer incorporated in the state of New York with a principal place of business in Saddle Brook, New Jersey. Its public filings disclose that it is organized to be active in various aspects of the securities industry. It claims it is an introducing broker-dealer exempt from the customer protection requirements of Exchange Act Rule 15c3-3, 17 C.F.R. § 240.15c3-3.¹⁶ At all relevant times, Trade Manage Capital was a "broker" and a "dealer" as those terms are defined in Sections 110(3) and 110(4) of the Act, and PCAOB Rules 1001(b)(iii) and 1001(d)(iii).

12. The Firm audited Trade Manage Capital's financial statements and accompanying supplemental information as of December 31, 2014, December 31, 2015, and December 31, 2016. The Firm reviewed the statements made by Trade Manage Capital in its Exemption Reports for fiscal years 2014, 2015, and 2016. Willner was the engagement partner for these audits and reviews. He authorized the Firm's issuance of audit and review reports to Trade Manage Capital on February 15, 2015, February 15, 2016, and February 17, 2017, respectively. Trade Manage Capital included the Firm's audit and review reports in Forms X-17A-5 Part III filed with the Commission on April 20, 2015, March 1, 2016, and March 15, 2017, respectively.

¹⁴ Id. ¶ 6.

¹⁵ Id. ¶ 13.

¹⁶ See Exchange Act Rule 15c3-3(k)(2)(ii). It also claims it is exempt under Exchange Act Rule 15c3-3(k)(2)(i).

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13. Without having obtained engagement quality reviews and concurring approvals of issuance as required by AS 7, the Firm granted permission to Trade Manage Capital to use its audit and review reports. As a result, the Firm violated AS 7.¹⁷

14. Willner was the sole owner of the Firm and the engagement partner for the Firm's audits and reviews for Trade Manage Capital. He had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards in connection with the audits and reviews. He authorized the Firm's issuance of audit and review reports for use by Trade Manage Capital without obtaining engagement quality reviews and concurring approvals of issuance. Accordingly, Willner knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7. As a result, he violated PCAOB Rule 3502.

15. Willner prepared the audit documentation for the Firm's audits and reviews for Trade Manage Capital. The audit documentation he prepared and retained consists primarily of documents obtained from Trade Manage Capital on which he recorded tick marks and other notations that do not provide sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed and conclusions reached.¹⁸ The audit documentation fails to document any audit planning, or risk assessment procedures and responses to risks of misstatement.¹⁹ In addition, it does not clearly demonstrate that the audit work was in fact performed or include an engagement completion document.²⁰ As a result, Respondents violated AS 3.

The Bettinger & Leech 2014-2016 Audits and 2015 Exemption Report Review

16. At all relevant times, Bettinger & Leech was a broker-dealer incorporated in the state of Delaware with a principal place of business in Englewood Cliffs, New Jersey. Its public filings disclose that it was formed to engage primarily in securities brokerage activities. It claims it is an introducing broker-dealer exempt from the customer protection requirements of Exchange Act Rule 15c3-3.²¹ At all relevant times,

¹⁷ See AS 7 ¶¶ 1, 13, 18C.

¹⁸ See AS 3 ¶ 6.

¹⁹ See *id.* ¶¶ 2, 9A.

²⁰ See *id.* ¶¶ 6, 13.

²¹ See Exchange Act Rule 15c3-3(k)(2)(ii).

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Bettinger & Leech was a "broker" and a "dealer" as those terms are defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii).

17. The Firm audited Bettinger & Leech's financial statements and accompanying supplemental information as of December 31, 2014, December 31, 2015, and December 31, 2016. The Firm reviewed the statements made by Bettinger & Leech in its Exemption Report for fiscal year 2015. Willner was the engagement partner for these audits and this review. He authorized the Firm's issuance of audit reports to Bettinger & Leech on February 14, 2015, February 14, 2016, and February 20, 2017, respectively, and a review report on February 14, 2016. Bettinger & Leech included the Firm's audit reports in Forms X-17A-5 Part III filed with the Commission on March 4, 2015, February 25, 2016, and March 1, 2017, respectively, and the Firm's review report in the abovementioned form filed on February 25, 2016.

18. Without having obtained engagement quality reviews and concurring approvals of issuance as required by AS 7, the Firm granted permission to Bettinger & Leech to use its audit and review reports. As a result, the Firm violated AS 7.²²

19. Willner was the sole owner of the Firm and the engagement partner for the audits and review for Bettinger & Leech. He had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards in connection with the audits and review. He authorized the Firm's issuance of audit and review reports for use by Bettinger & Leech without obtaining engagement quality reviews and concurring approvals of issuance. Accordingly, Willner knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7. As a result, he violated PCAOB Rule 3502.

20. Willner prepared the audit documentation for the Firm's audits and review for Bettinger & Leech. The audit documentation he prepared and retained consists primarily of documents obtained from Bettinger & Leech on which he recorded tick marks and other notations that do not provide sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed and conclusions reached.²³ The audit documentation fails to document any audit planning, or risk assessment procedures and responses to risks of misstatement.²⁴ In addition, it

²² See AS 7 ¶¶ 1, 13, 18C.

²³ See AS 3 ¶ 6.

²⁴ See *id.* ¶¶ 2, 9A.

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does not clearly demonstrate that the audit work was in fact performed or include an engagement completion document.²⁵ As a result, Respondents violated AS 3.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit and review reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Peter D. Willner, CPA, a registered public accounting firm, and Peter Willner, CPA, the Firm's sole owner, are censured;
- B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Peter D. Willner, CPA is revoked;
- C. Pursuant to PCAOB Rule 5302(a), after one (1) year from the date of the Order, Peter D. Willner, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101;
- D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Peter Willner, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).²⁶

²⁵ See *id.* ¶¶ 6, 13.

²⁶ As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Peter Willner, CPA. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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- E. Pursuant to PCAOB Rule 5302(b), after one (1) year from the date of this Order, Peter Willner, CPA may file a petition for Board consent to associate with a registered public accounting firm; and
- F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of \$10,000 is imposed upon Peter D. Willner, CPA, a registered public accounting firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Peter D. Willner, CPA shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies Peter D. Willner, CPA as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 13, 2017