

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 75861 / September 9, 2015

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3691 / September 9, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16799

In the Matter of

SALVATORE J. ZIZZA,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER AND CIVIL PENALTY

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Salvatore J. Zizza (“Zizza” or “Respondent”).

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, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

A. SUMMARY

1. These proceedings concern materially misleading statements and omissions made by Zizza, the chief executive officer ("CEO") of General Employment Enterprises, Inc. ("GEE" or the "Company"), to the Company's auditors concerning the return of \$2.3 million from related parties after the money was unaccounted for.

B. RESPONDENT

2. **Zizza**, age 69 and a resident of New York, New York, served as the CEO of GEE from December 23, 2009, through December 2012.

C. RELEVANT ENTITIES AND INDIVIDUALS

3. **GEE** is an Illinois corporation headquartered in Oakbrook Terrace, Illinois that provides professional placement services and temporary staffing services in certain industries. GEE's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on the NYSE MKT stock exchange. GEE files periodic reports, including Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder.

4. **River Falls Financial Services, LLC** ("River Falls Financial"), **River Falls Investments, LLC f/k/a Oxygen Unlimited II, LLC** ("River Falls Investments"), **River Falls Holdings, LLC** ("RFH"), **Accredited Investor Resources, LLC f/k/a Oxygen Investment Partners, LLC** ("AIR"), **Oxygen Unlimited, LLC** ("Oxygen"), **O2HR, LLC** ("O2HR"), **SDH Realty, LLC** ("SDH"), **WTS Acquisition LLC** ("WTS"), **H2H Holdings, LLC** ("H2H"), and **PSQ, LLC** ("PSQ") (collectively, the "Affiliated Entities") are purported holding, investment, employment-related, and insurance companies. River Falls Financial, AIR's administrative member, purportedly owned at least 99% of AIR's common units and millions of dollars of AIR's preferred units. AIR was purportedly an investment company designed to make investments in River Falls Investments and certain other of the Affiliated Entities. River Falls Investments was a purported holding company of Oxygen, which was a purported holding company of O2HR, a professional employer organization. RFH was the purported holding company of River Falls Investments. PSQ was a purported holding company whose sole asset was GEE shares representing a controlling stake in the Company acquired as of July 1, 2009.

5. During at least 2009 and 2010, **Wilbur Anthony Huff** ("Huff")² exercised substantial financial and management control over numerous entities, including, among others, the

¹ 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.

Affiliated Entities and their holdings. As a convicted felon, Huff faced legal and practical barriers to operating business entities in his own name, particularly business in regulated industries, including employment-related, insurance, and banking companies. Huff installed other business partners, including Pence, to perform day-to-day operational functions and/or serve as the listed owners, directors, or managers. Zizza first met Huff and Pence in 2008 when Huff asked for Zizza's help raising money for Oxygen and River Falls Investments. Zizza also attended a conference at which Huff discussed various AIR-related investments.

6. **Park Avenue Bank** ("PAB" or "the Bank") was a New York State chartered bank until it was closed by the New York State Banking Department on March 12, 2010, and the Federal Deposit Insurance Corporation was named Receiver. The Affiliated Entities primarily conducted their banking business through PAB. **Charles J. Antonucci, Sr.** ("Antonucci") served as the president and CEO of PAB from June 2004 until October 2009. In October 2010, Antonucci pled guilty to multiple criminal charges, including securities fraud, bank bribery, embezzlement, and providing a false confirmation to BDO of GEE's purported CD at PAB. Separately, **Park Avenue Insurance** was a private insurance company owned by Antonucci that was not affiliated with PAB.

7. **BDO USA, LLP** ("BDO"), formerly known as BDO Seidman, LLP, is a Delaware limited liability partnership and a PCAOB-registered public accounting firm with its headquarters in Chicago, Illinois. BDO served as GEE's independent auditor from 2004 through 2012.

8. **Stephen B. Pence** ("Pence") served as the chairman of the board of GEE from July 1, 2009, through November 17, 2010. Although Pence purported to be the sole member and owner of PSQ, whose sole asset was the GEE shares representing a controlling stake in the Company as of July 1, 2009, PSQ was one of the Affiliated Entities over which Huff exercised substantial financial and management control. PSQ's acquisition of GEE stake was funded by AIR and Oxygen. Pence also represented to BDO that he was the 100% owner of River Falls Financial, another of the Affiliated Entities. Huff directed substantial monthly payments to Pence (\$25,000) from several of the Affiliated Entities to ensure his control over, and ability to influence, GEE's operations. Pence formerly served as the lieutenant governor of Kentucky from 2003 to 2007 and the United States Attorney for the Western District of Kentucky from 2001 to 2003.

² Huff pled guilty to federal mail fraud charges for obtaining insurance premium finance loans under false pretenses in the Western District of Kentucky in 2003. In 2008, the Commission filed charges against Huff related to a scheme to misappropriate assets from and to record fake letters of credit at Certified Services, Inc. *SEC v. Huff*, 08-CV-60315 (S.D. Fla.). On October 22, 2010, the Court entered judgment for the Commission against Huff requiring him to pay more than \$13 million, among other relief. Separately, after an October 2012 indictment against him, Huff pled guilty on December 23, 2014 to an information, which alleged, among other things, that: (1) Huff controlled GEE, in whole or in part, by installing other individuals; (2) Huff participated with Antonucci in a conspiracy in which they stole \$2.3 million from GEE and Huff later returned the \$2.3 million to GEE from three companies he controlled; and (3) a large portion of the \$2.3 million received by GEE were funds entrusted to Oxygen by its clients for payment of the clients' employment tax and other obligations. *U.S. v. Huff*, 12-CR-750 (S.D.N.Y.).

9. **Ronald E. Heineman** (“Heineman”) was appointed as the CEO of GEE on July 1, 2009, in connection with PSQ’s acquisition of a controlling stake in GEE. Heineman served as CEO until his resignation on December 23, 2009, in connection with the events described herein. Zizza was appointed as GEE’s CEO to replace Heineman on the same day. Huff directed substantial monthly payments to Heineman (\$15,000) from the Affiliated Entities during this time period.

10. **Associate-1** was another of Huff’s business partners and was listed or served at various times as a manager of River Falls Investments, Oxygen, and O2HR, and as co-manager of River Falls Financial with Heineman. Associate-1 was also involved in PSQ’s acquisition of a controlling stake in GEE and attended several GEE board meetings in 2009. In addition, from July 2009 until September 2009, Associate-1 was a signatory on GEE’s bank account at PAB despite the fact that Associate-1 was not an official employee, officer, or director of the Company. Associate-1 also purported to be the owner of WTS (another of the Affiliated Entities), a holding company of **On-Site Services, Inc.** (“On-Site”) and **Ameritemps, Inc.** (“Ameritemps”), which WTS had acquired in January 2009 with funding from other Affiliated Entities.

D. BACKGROUND

11. Zizza became CEO of GEE on December 23, 2009, after a period of prior business dealings with Huff, Pence, and other entities and individuals associated with them. In December 2009, shortly before and after he became GEE’s CEO, Zizza engaged in a series of conversations with the company’s auditor, BDO, concerning the circumstances surrounding the return of \$2.3 million that GEE had purportedly invested in a CD issued by PAB.

12. GEE’s May 18, 2009, definitive proxy statement disclosed that in January 2009, GEE began discussions with representatives of River Falls Financial concerning the possibility of a tender offer and direct cash investment in GEE. The River Falls Financial representatives included Heineman and Pence, and Huff was present for one of the relevant meetings. At all relevant times, Zizza was aware that Huff was a convicted felon. The proxy statement further disclosed that, on February 11, 2009, River Falls Financial and PSQ, a special purpose vehicle purportedly formed by Pence, entered into a non-binding letter of intent with GEE for a purchase and tender offer agreement to obtain a controlling stake in GEE.

13. In 2009, Zizza understood that Pence had a managerial role with certain of the Affiliated Entities, including River Falls Financial and River Falls Investments. In the spring of 2009, Zizza signed a loan commitment term sheet on behalf of Metropolitan Paper Recycling, Inc. (“MPR”), a company 50% owned by Zizza, in which River Falls Investments agreed to provide \$3 million in financing to MPR. Zizza signed the agreement as MPR’s chairman, and Pence signed as River Falls Investments’s manager. While Zizza understood that Pence had a managerial role with River Falls Investments, he also knew or should have known that Huff exercised substantial financial and management control over River Falls Investments. Zizza also knew or should have known that Huff exercised substantial financial and management control over River Falls Financial because on January 4, 2010, MPR received a loan of \$200,000 from River Falls Financial at Huff’s direction.

14. According to GEE's May 18, 2009, definitive proxy statement, on March 30, 2009, after negotiations continued following the February 2009 non-binding letter of intent, Pence signed on behalf of PSQ a definitive securities purchase and tender offer agreement (the "Purchase Agreement"). The Purchase Agreement provided that, subject to shareholder approval, PSQ would acquire a controlling stake in GEE by (1) purchasing 7,700,000 newly-issued shares of GEE common stock in a private placement transaction at a purchase price of \$0.25 per share for a total purchase price of \$1,925,000; (2) commencing a cash tender offer to purchase from the Company's shareholders up to 2,500,000 shares of common stock at a purchase price of \$0.60 per share; (3) appointing three directors to a five-member board of directors, including Pence becoming the chairman of the board; and (4) designating Heineman GEE's CEO. On June 22, 2009, a GEE press release announced that shareholders approved the Purchase Agreement and the closing of the Purchase Agreement was announced on July 1, 2009. As a result, PSQ acquired more than 65% ownership of the Company, Pence became GEE's chairman and appointed two other directors, and Heineman became GEE's CEO.

15. Although Pence purported to be sole member and owner of PSQ, as Zizza knew or should have known, PSQ was one of the Affiliated Entities over which Huff exercised substantial financial and management control. Virtually all of the funds deposited in PSQ's bank accounts during 2009 were deposits made directly from several of the Affiliated Entities, including AIR, Oxygen, River Falls Financial, and RFH, typically at the direction of Huff. Specifically, in almost every instance in which PSQ needed to make a payment, PSQ received the necessary funds from one of the Affiliated Entities and immediately paid the obligation with the deposited funds. For example, to fund PSQ's obligations under the Purchase Agreement, AIR transferred \$1,925,000 to PSQ, and to cover PSQ's tender offer obligations, AIR transferred \$850,000 and Oxygen transferred \$372,000 (a total of \$1,222,000) to PSQ. In exchange, Huff required Pence to sign two purported promissory notes to AIR in his personal capacity for these amounts (\$1,925,000 and \$1,222,000), even though \$372,000 had been provided by Oxygen. Although the two promissory notes required Pence to pay annual interest of 5%, Huff did not actually require Pence to make any interest payments to AIR and no payments were made.

16. In late June 2009, Pence arranged for Associate-1 to become a signatory on GEE's bank account at PAB and Associate-1 remained a signatory from July 2009 until September 2009. In addition, Associate-1 negotiated certain employment and other agreements on behalf of GEE, and Associate-1 attended several GEE board meetings in 2009. At the same time, Huff and Associate-1 controlled WTS, which owned a number of companies that Huff and Associate-1 intended to sell to GEE. Because Huff and Associate-1 controlled WTS, Pence did not appoint Associate-1 to be an officer, director, or employee of GEE, which avoided scrutiny of this clear conflict of interest.

17. Huff and his business partners—including Pence, Heineman, and Associate-1—created a number of oral and written side agreements regarding ownership, profit sharing, and management of the Affiliated Entities. For example, at the time AIR purportedly loaned Pence the funds for PSQ's transaction with GEE, Pence had no ability to repay the loans without fully liquidating the GEE shares purchased by PSQ. Thus, in consideration for AIR's purported loans to Pence, Pence and Huff orally agreed that if GEE's stock price increased Pence would compensate AIR with GEE shares in addition to repaying the amounts of the promissory notes. As a result,

Huff and AIR had a beneficial ownership interest in the GEE shares held by PSQ, which was not disclosed.

18. From March 2009 through at least April 2010, in connection with PSQ's majority ownership of GEE, PSQ paid Zizza \$20,000 per month for consulting work. Huff funded PSQ's payments to Zizza through the Affiliated Entities. For example, Pence notified Huff on January 2, 2010 that PSQ needed to pay Zizza for consulting and specifically asked Huff and Huff's assistant to deposit money into PSQ's account so PSQ could pay Zizza. Huff's assistant sent PSQ a check from a River Falls Financial account on January 4, 2010, and Pence sent Zizza a check from PSQ's account for \$20,000 on the same date. Zizza advised Pence and Huff on several acquisitions that GEE was considering in 2009. Huff and Pence also promised Zizza that if GEE's stock price increased, they would compensate Zizza with at least 500,000 GEE shares. Zizza learned that AIR had financed PSQ's purchase of the controlling stake in GEE. Zizza subsequently became the CEO of GEE on December 23, 2009.

19. Huff covertly exercised influence and control over GEE operations through Pence and Heineman as a result of his control over AIR, which financed PSQ's investment in GEE. Huff also sent substantial monthly payments to Pence (\$25,000), Zizza (\$20,000), and Heineman (\$15,000) from several of the Affiliated Entities in an attempt to ensure his control over, and ability to influence, GEE operations.

20. Huff exerted control over GEE by, among other things, causing GEE to acquire several entities owned by WTS, which Huff and Associate-1 controlled. For example, at a GEE board meeting on August 10, 2009, attended by Pence and Zizza (as Pence's guest), Heineman convinced the GEE board of directors to authorize him to enter into a letter of intent with WTS to acquire its subsidiary On-Site, which was publicly announced on September 6, 2009. Thereafter, in June 2010, while Zizza was GEE's CEO, GEE acquired On-Site, resulting in a financial benefit to Huff. In November 2010, GEE acquired additional assets of WTS doing business as Ameritemps, RFFG of Cleveland, LLC and DMCC Staffing, LLC, again resulting in a financial benefit to Huff. During 2010, Zizza had numerous discussions with Huff concerning these acquisitions.

E. ZIZZA KNEW OR SHOULD HAVE KNOWN THAT THE PURPORTED \$2.3 MILLION CD ASSIGNMENT WAS A RELATED PARTY TRANSACTION

21. As part of the July 2009 closing of PSQ's Purchase Agreement with GEE, GEE opened a checking account at PAB into which PSQ's escrowed \$1,925,000 would be deposited upon the closing. In June 2009, Associate-1 coordinated with GEE's chief financial officer (the "GEE CFO") to have the GEE checking account opened at PAB and the authorized signatories on the account were the GEE CFO, Pence, and Associate-1. The GEE CFO, Pence, and Associate-1 remained the only authorized signatories on the account until September 2009, at which time Associate-1 was removed and Heineman was added. Following the closing, in early July 2009, GEE transferred an additional \$750,000 from GEE's accounts at other banks to the GEE PAB checking account. The approximately \$2.6 million deposited in the GEE PAB checking account constituted substantially all of GEE's cash and half of its assets.

22. In approximately July 2009, in a conversation in which Zizza did not participate, Huff discussed with Pence, GEE's chairman, the possibility of the Company investing money in Park Avenue Insurance to achieve greater returns on GEE's cash. Park Avenue Insurance was a private insurance company owned by Antonucci that was not affiliated with PAB and Pence had served as Park Avenue Insurance's president during part of 2009.

23. GEE's fiscal year ended on September 30, 2009. GEE's CFO identified that \$2.3 million had been withdrawn from the GEE PAB operating account on July 23, 2009, without the GEE CFO's knowledge. The GEE CFO reported that when he asked about the withdrawn funds, GEE's CEO Heineman claimed that he had authorized GEE to invest \$2.3 million into a CD at PAB. The GEE CFO also reported that, although he had repeatedly requested documentation concerning the purported CD, such as a written approval or account agreement—and cited the lack of documentation as a control deficiency—Heineman only provided the GEE CFO with a one-page PDF of a typewritten "Certificate of Deposit Receipt" for \$2.3 million with a single maturity date of October 21, 2009, and interest rate of two percent. This information became known to Zizza before he became GEE's CEO on December 23, 2009.

24. In early November 2009, the GEE CFO noticed that PAB had not remitted the proceeds of the purported CD of \$2.3 million plus interest into GEE's operating account upon the maturity date, October 21, 2009. When the GEE CFO contacted PAB, a PAB representative stated that the Bank had no record of the purported CD in its system. The GEE CFO then pressed both Heineman and Pence for an explanation. On November 9, 2009, Pence asked Heineman for information about the purported CD; Heineman responded to Pence that Huff would contact PAB on GEE's behalf.

25. According to the minutes of a November 23, 2009, audit committee meeting, attended by BDO, the GEE CFO reported his concerns that GEE had little documentation supporting the purported CD, including no written authorization from an account signatory and no deposit agreement. According to the minutes, Heineman claimed that he authorized the purported CD at Pence's direction, and claimed the lack of documentation was due to "the rapid pace of the transactions in which he had been involved, coupled with reorganization and personnel changes at Park Avenue Bank." Heineman next stated that he had anticipated that the CD would be maintained on a continuing renewal basis but he had asked Pence to liquidate the purported CD and have the funds transferred into the PAB checking account by the end of the week. The minutes also state that the BDO engagement partner "said that the audit was substantially completed, pending resolution of the missing funds issue, receipt of legal letters from counsel, and the executed management representation letter" and that BDO "would be issuing an unqualified opinion on the consolidated financial statements."

26. On November 24, 25, and 27, 2009, Huff directed and caused a total of \$900,000 to be transferred to GEE's bank accounts in installment payments of \$300,000 on each such date from the bank accounts of two Affiliated Entities: SDH and Oxygen.

27. On November 28, 2009, Pence emailed Zizza that an audit committee member, whom Pence had appointed in connection with the PSQ transactions in July (the "AC Member"), "is going to handle the issue with the CD" at the GEE board of directors meeting on November 30,

2009. Pence stated: “I would like for you to talk with him before then I think he has a good idea.” Zizza replied: “Ok will do.”

28. On November 30, 2009, Pence, Zizza, Heineman, and the AC Member attended a GEE board of directors meeting. Zizza, who had no formal role at GEE at this time, attended as an “invited guest.” The board minutes indicate that the audit committee chairman (the “AC Chair”) explained that the Company’s Form 10-K had not yet been filed because BDO’s “final” opinion was predicated on the satisfactory accounting for the PAB CD and an explanation for where GEE’s funds had been since the CD matured on October 21. During this November 30, 2009, board meeting, the AC Member stated he believed that the situation occurred as a result of administrative errors on the part of the Bank, and Pence said that the AC Member had agreed to pursue the matter with PAB. Neither Pence nor Heineman (or anyone else) mentioned anything about GEE selling or assigning the purported CD to a third party.

29. On December 4, 2009, the BDO engagement partner on the GEE audit sent an email to the AC Chair, Heineman, and Pence, among others, summarizing the open items requiring resolution prior to the issuance of BDO’s audit report. The email begins by noting that after the CD had matured in October 2009, when the GEE CFO had contacted the Bank, a PAB representative informed the GEE CFO that there was no record of the purported CD and that after some investigation by the AC Member, “in late November it was determined that the funds would be returned to GEE in installments.” The email then notes that GEE had received the following wire transfers: (i) November 24: \$300,000 wire transfer from SDH; (ii) November 25: \$300,000 wire transfer from Oxygen; (iii) November 27: \$300,000 wire transfer from SDH; and (iv) December 1: \$100,000 wire transfer from Oxygen. It then stated that the BDO engagement partner had discussed the matter with Heineman and Pence, who both referred him to the AC Member who was working directly with PAB on the matter, and that the AC Member left him a voicemail “indicating the bank continues to put money against the CD they owe [GEE] and it should be fully repaid by the close of business on Monday, Dec. 7” and that the Bank would provide a short apology note.

30. Later in the day on December 4, the AC Chair sent an email to the BDO engagement partner and concurring partner summarizing his call with the AC Member, stating that when he spoke with the AC Member “he told me that [PAB] had reported these transaction [sic] to the FDIC and that the money sent to the various entities that are now sending GEE the money are sending us the banks money rather than sending it back to the bank.” The AC Chair continued: “This makes absolutely no sense. It looks like [PAB] is on the verge of failing. The FDIC and a bankruptcy estate are going to require [PAB] to collect every cent they can under loans or other arrangements to settle with the creditors of the bank before they send money to third parties.”

31. The following day, on December 5, 2009, the AC Chair emailed GEE’s board (including Pence) and Heineman calling for a special audit committee meeting on December 9 because of “several unanswered questions related to \$2.3 million of the Company’s cash which supposedly was invested in a Certificate of Deposit (‘CD’) at Park Avenue Bank which will need to be answered before BDO will complete their Audit Report for the Company’s fiscal year ended September 30, 2009.” The AC Chair’s email noted several issues, including that (i) there was no

account agreement with PAB or regular reporting on the CD; (ii) PAB did not remit the proceeds of the CD into GEE's operating account when it reached its maturity date on October 21, 2009; (iii) PAB provided no explanation to the GEE CFO when he attempted to investigate; and (iv) the AC Member who took the lead on this matter with PAB "was informed on or about November 21, 2009, that the funds would be returned to [GEE] in a series of deposits." The email also provided a chart of seven wire transfers totaling \$1.7 million, which included the four noted in Henaghan's December 4 email plus a December 2, 2009, wire transfer from Oxygen for \$100,000, a December 2, 2009, wire transfer from River Falls Financial of \$300,000, and a December 3, 2009, wire transfer from River Falls Financial also for \$300,000. The address listed for both SDH and River Falls Financial on each of their wire transfers in the chart was 11921 Brinley Ave, Louisville, KY.

32. On December 4 and December 9, 2009, GEE received two additional wire transfers from River Falls Financial for \$300,000 each, bringing the total amount received by GEE from River Falls Financial to \$1.2 million and the total of the nine wire transfers to \$2.3 million, the same amount that Heineman had purported to invest in a CD. Zizza knew or should have known that Huff, in conjunction with Associate-1, directed the transfers from SDH, Oxygen, and River Falls Financial to return the missing funds to GEE.

33. On December 8, the AC Chair emailed the BDO engagement partner, providing some links he suggested the BDO engagement partner review before he had a conversation with the AC Member and any representatives of PAB, "particularly the Anthony Huff links" and explained that he "met Anthony Huff when we went to New York" to negotiate PSQ's acquisition. The email included links to a press release announcing the Commission's lawsuit against Huff, a link to Huff's website noting the address 11921 Brinley Avenue, Louisville, KY in the text of the email, and a link to the website for Oxygen noting the identical address. This is the same address that appeared in the wires sent to GEE by River Falls Financial and SDH, as noted in the AC Chair's December 5 email described in paragraph 31, above. Also, Huff's website at the time contained references to River Falls Investments, SDH, Oxygen, and O2HR.

34. Also on December 8, 2009, the day before the special audit committee meeting, the AC Chair received an email from Heineman to the audit committee with several attachments. Heineman's email purported to offer a new explanation for why GEE had received \$2.3 million from the three entities rather than PAB. Heineman claimed that he had negotiated an assignment agreement with the manager of River Falls Investments (Associate-1), who "offered to purchase" the purported CD from GEE at face value. Heineman also attached to his email an unsigned, draft assignment agreement and a letter from Heineman to PAB, dated July 21, 2009, that purportedly authorized the \$2.3 million CD investment. Heineman's email also attached a July 2009 monthly statement for GEE's operating account at PAB, which included the description of the \$2.3 million withdrawal as a debit on July 23 with a debit memo stating in handwriting: "To: Park Avenue Insurance, See Attachment Approval, \$2,300,000.00." Park Avenue Insurance was a private insurance company separately owned by Antonucci that was not affiliated with PAB.

35. According to the minutes of GEE's audit committee meeting on December 9, 2009:
- The BDO engagement partner expressed concern that BDO still did not have a clear understanding of the purported CD transaction.

- The BDO engagement partner said that BDO needed to understand the nature of the purported administrative errors at PAB that he had been told were responsible for the lack of proper documentation regarding the CD transaction. He also explained that BDO required documentation validating the banking transactions, and an explanation as to why there was no existence of an account agreement with the Bank or no record of the CD being at the bank.
- Another BDO partner, BDO's Midwest Regional Business Line Leader, said he believed members of GEE's senior management appeared hesitant to provide information related to these transactions.
- The BDO engagement partner stated that the assignment agreement did not resolve the outstanding issues as BDO still needed to know what transpired within PAB and make a determination of whether the assignment agreement with River Falls Investments was a related party transaction.
- BDO also advised that although the assignment agreement "may reduce or eliminate the need for going concern disclosure, it would increase the requirement that management provide sufficient disclosure regarding any related party conflicts."

36. On December 14, 2009, GEE's outside counsel sent PAB a formal letter requesting all documentation and information concerning the purported CD. PAB's December 16, 2009, response provided only documents relating to GEE's checking account and did not provide any documents or other information about the purported CD. The checking account documentation, however, indicated that only Associate-1, the GEE CFO, and Pence were authorized signers on GEE's account from July to September 2009—not Heineman—and the checking account statements reflected a debit memo for the transfer of \$2.3 million of GEE's cash to Park Avenue Insurance on July 23, 2009. At some point in December 2009, Zizza understood that a debit memo attached to the GEE PAB July 2009 account statement stated that the \$2.3 million had been transferred to Park Avenue Insurance, not into a purported CD.

37. On the evening of December 17, 2009, Zizza emailed Pence that BDO's Midwest Regional Business Line Leader "w[ould] take a call from us to resolve the Bank issue and then issue the statement." The following day, Pence emailed Zizza stating, "We need to decide [Heineman's] fate quickly." Zizza spoke to BDO's Midwest Regional Business Line Leader concerning GEE.

38. On December 22, 2009, BDO sent the AC Chair a letter stating that BDO did not have sufficient audit evidence to formally conclude the audit and demanded an independent investigation ("BDO's demand letter"). BDO's demand letter noted identified multiple inconsistencies and problems in the audit evidence BDO had received regarding the purported CD, including that a number of significant questions remained unanswered concerning both the existence of the purported CD (e.g., why bank records provided by PAB showed a transfer of \$2.3 million to Park Avenue Insurance) and the manner in which \$2.3 million had been transferred to the Company by the Affiliated Entities (e.g., why Associate-1 would pay 100% of the face value of

the purported CD after the maturity date had expired without payment by PAB, why had River Falls Financial—purportedly owned by Pence—transferred approximately \$1 million to GEE in connection with the alleged assignment of the purported CD to River Falls Investments, and why Heineman had made inconsistent representations about his involvement in negotiating the alleged assignment with Associate-1). Pence forwarded BDO’s demand letter to Zizza and Associate-1, the purported manager of River Falls Investments.

39. On the evening of December 22, 2009, BDO learned that the audit committee meeting that was scheduled for the following day had been cancelled, Zizza, an advisor to Pence who had attended GEE board meetings through the fall of 2009, would be taking over as CEO, and that Pence and Associate-1 intended to prepare written responses to each of the issues identified in the December 21 letter. On December 23, 2009, Heineman formally resigned as GEE’s CEO and that same day Pence appointed Zizza to be GEE’s new CEO.

40. Zizza, over the course of many years, had brought new business to BDO in the form of several auditing clients. A senior partner in BDO’s New York office (the “BDO NY Partner”) handled some of Zizza’s other business relationships with BDO, including audit or tax work for Zizza’s private company and three public companies for which Zizza served as a board member. Thereafter, the NY Partner reached out to auditors in BDO’s Chicago and national offices to vouch for Zizza.

41. On December 24, 2009, after reviewing BDO’s demand letter, Zizza participated in two calls with BDO, one that included the AC Chair and another that included both the AC Chair and Pence. The BDO NY Partner also participated in the call with Zizza and the AC Chair. During those calls, Zizza requested that BDO conclude the audit without the need for an independent investigation because GEE had full control of the \$2.3 million in question and because he had replaced Heineman as CEO. When BDO asked Zizza about the CD and the assignment agreement, Zizza stated that he was comfortable with issuing the financial statements because GEE had control over the \$2.3 million that had been missing.

42. Although a number of critical questions raised in BDO’s demand letter remained unanswered, shortly after the December 24 telephone conversations with Zizza, BDO issued an audit report containing an unqualified opinion on GEE’s 2009 financial statements. Zizza also advised GEE’s audit committee that, in his opinion, there was no need to investigate the potential related party issues arising out of the assignment agreement between GEE and River Falls Investments.

43. On January 8, 2010, Zizza signed a representation letter to BDO that stated the following:

The following, where applicable and material, have been properly recorded or disclosed in the consolidated financial statements: (a) Related-party transactions (e.g., transactions with unconsolidated subsidiaries; affiliates under common control with the Company or that are directly or indirectly controlled by the Company; principal owners of record or known beneficial interest of 10 percent or more of the Company’s voting stock, directors, management, and members of

their immediate families), including sales, purchases, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties . . .

In July 2009 the Company purchased a \$2.3 million certificate of deposit (CD) at Park Avenue Bank. When the CD matured in October 2009 the bank did not refund the proceeds to the Company. To date the Company has not received an adequate explanation for the bank's non-performance relating to the CD. The Company is not aware of why the Company did not receive the proceeds from its Park Avenue Bank certificate of deposit upon its maturity and has provided you all information available to it in regards to this matter. In December 2009 the Company was reimbursed in full through a non-recourse assignment of the CD to an unrelated party, who has a business interest in the viability of bank. There are no side letters, e-mails, or other agreements (oral or written) that materially alter the terms of the assignment agreement.

44. Zizza's representations to BDO in phone calls and in the management representation letter were materially misleading because, among other things, Zizza knew or should have known that:

- a. On paper, Pence was an indirect owner of River Falls Investments, the entity that signed the alleged assignment agreement and had signed loan agreements as River Falls Investments's manager;
- b. Huff controlled River Falls Investments and River Falls Financial;
- c. Huff had directed the Affiliated Entities to transfer \$2.3 million to GEE to preserve the financial viability of GEE for the benefit of AIR, Huff, and PSQ; and
- d. Pence, Zizza, Huff and Associate-1 had unwritten agreements, as described in paragraphs 17 and 18 above, whereby they would benefit from the rise in GEE's stock price.

45. Among other things, Zizza also knew or should have known that the assignment agreement between GEE and River Falls Investments was a related party transaction given Huff's influence and control—and Pence's control, on paper—over both entities.

46. On January 8, 2010, Zizza signed GEE's Form 10-K, which classified the \$2.3 million purported CD as a cash equivalent and stated in a footnote disclosure to the financial statements:

In July 2009, the Company purchased a \$2,300,000 certificate of deposit ("CD") at a New York bank. When the CD matured in October 2009, the bank did not timely credit the proceeds of the CD to the Company's account. Although the Company has made a formal inquiry of the bank, to date the Company has not received an

adequate explanation for the bank's non-performance relating to the CD. In December 2009, the Company was reimbursed in full through a non-recourse assignment of the CD for face value to an unrelated party, who has other business interests with the bank. The purchaser of the CD is neither an employee nor a director of the Company.

47. GEE's 2009 Form 10-K was materially misstated because, among other things, it incorrectly represented GEE had a \$2.3 million CD and classified it as a cash equivalent as of September 30, 2009, and did not disclose the assignment agreement as a related party transaction given Huff's influence and control—and Pence's control, on paper—over both entities.

48. On March 13, 2010, the United States of America filed a 44-page criminal Complaint against former PAB president Antonucci (the "Antonucci Complaint"), alleging a scheme and conspiracy involving a \$6.5 million round-trip transaction in which GEE's \$2.3 million was diverted as part of the conspiracy. Huff, Heineman, and Pence are referred to and identifiable as designated "co-conspirator[s] not named herein" in certain aspects of that conspiracy. The allegations in the Antonucci Complaint contained several details that indicated that GEE did not have a CD with PAB, that River Falls Financial, River Falls Investments, Oxygen, SDH, and PSQ were related parties, and that Heineman had authorized the money to be transferred to Park Avenue Insurance as part of the conspiracy, and not to purchase a CD:

- "To hide the improper diversion of GEE's funds from GEE's auditors and Board of Directors, [Antonucci] and others created a counterfeit certificate of deposit [], falsely representing that GEE's \$2.3 million had been invested in a 90-day certificate of deposit at the Bank. In fact, and as [Antonucci] well knew, there was no \$2.3 million CD."
- GEE's \$2.3 million had been transferred to Park Avenue Insurance, which was controlled by Antonucci. According to the Bank records, Heineman authorized this transfer.
- Antonucci fraudulently signed the BDO confirmation of the \$2.3 million CD, when Antonucci knew it did not exist.

The Antonucci Complaint further identified several "Oxygen-related entities" as participants in the conspiracy, including, River Falls Financial (which Pence said he owned), PSQ (Pence's entity that purchased the majority stake in GEE), and Oxygen and SDH—two companies that paid GEE purportedly under the assignment agreement with River Falls Investments (which [Associate-1] said he and a Huff family trust owned). It further alleged that a group of five associates (including Huff and Pence) were listed on some of the accounts of the Oxygen-related entities, which shared a common address in Louisville, Kentucky.

49. In a May 25, 2010 email, the BDO engagement partner told Zizza that he would like to discuss certain issues regarding the Antonucci Complaint. The BDO engagement partner wrote that he wanted to discuss the allegations that "Pence purchased a 25% interest in Bedford Consulting from Antonucci for \$6.5 million in what the complaint describes as an 'artifice designed to cover up the true source of the \$6.5 million.'" He also wrote: "The Complaint indicates that River Falls is owned by Pence, [Associate-1], and Heineman. All previous

information disclosed to us by Heineman and Pence indicated that Pence owned 100% of River Falls.” He further noted that the Complaint indicated that PSQ borrowed money from River Falls to buy the GEE shares. The email to Zizza did not address the allegations in the Antonucci Complaint denying the existence of the purported CD or indicating related party issues concerning the funds received by the “Oxygen-related entities.”

50. During his conversation with BDO, Zizza withheld material information that bore upon the accuracy of GEE’s previously-filed 10-K and future filings addressing the purported CD. Specifically, Zizza failed to disclose to BDO the same material facts identified in paragraph 44 of this Order.

51. Later throughout 2010, Zizza failed to disclose to BDO facts that he knew or should have known, including that companies acquired by GEE, including On-Site, RFFG of Cleveland, LLC, and DMCC Staffing, LLC were partially controlled by Huff. Zizza’s materially false or misleading statements and omissions were relevant to BDO’s audit of GEE for 2010 and the Company’s preparation of its Form 10-K.

52. In December 2010, Zizza signed a representation letter that included similar language to the representation letter discussed in paragraph 43 of this Order concerning related parties, the purported CD with PAB, and the assignment agreement. For the same reasons, Zizza’s representations in that management representation letter were materially misleading.

53. GEE’s Form 10-K filed on December 28, 2010, for its fiscal year ended September 30, 2010, classified the \$2.3 million CD as a cash equivalent as of September 30, 2009, included a similar disclosure as the disclosure in the Form 10-K filed in January 2010 and was materially misleading for the same reasons:

In November 2009, the Company discovered that it did not receive the proceeds from a bank for a \$2,300,000 certificate of deposit that was scheduled to mature in October 2009. Although the Company made a formal inquiry of the bank, it did not receive an adequate explanation for the bank’s non-performance related to the deposit. In December 2009, the Company entered into an agreement to assign its interests in the certificate of deposit, without recourse, to an unrelated party that has other business interests with the bank, and the Company was reimbursed for the face value of the deposit.

F. VIOLATIONS

54. Rule 13b2-2 of the Exchange Act prohibits officers and directors from, directly or indirectly, making or causing to be made materially false or misleading statements or omissions to accountants in connection with an audit or preparation of reports to be filed with the Commission.

55. As a result of the conduct described above, Zizza violated Rule 13b2-2 under the Exchange Act.

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 that:

A. Pursuant to Section 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations of Exchange Act Rule 13b2-2.

B. Respondent shall within 14 days of the entry of this Order, pay a civil money penalty of \$150,000 to the Commission for transfer to the general fund of the United States Treasury in accordance with Exchange Act 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Zizza as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Timothy Casey, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, New York, NY 10281-1022.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by

Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary