

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 82207 / December 4, 2017**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3912 / December 4, 2017**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-18293**

**In the Matter of**

**RICHARD J. KOCH, 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 Richard J. Koch, CPA (“Respondent” or “Koch”) pursuant to Sections 4C<sup>1</sup> and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.<sup>2</sup>

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<sup>1</sup> Section 4C provides, in pertinent 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 engaged in unethical or improper professional conduct.

<sup>2</sup> Rule 102(e)(1)(ii) provides, in pertinent 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 engaged in unethical or improper professional conduct.

## 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 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 finds<sup>3</sup> that:

### SUMMARY

1. These proceedings arise out of improper professional conduct by Koch, an audit partner at Anton & Chia, LLP (“A&C”), related to the 2013 year-end audit of Premier Holding Corp. (“Premier”) and the 2013 second and third quarter interim reviews of CannaVEST Corp. (“CannaVEST”). For both the Premier and CannaVEST engagements, Koch was the engagement quality reviewer (“EQR”). As the EQR, Koch failed to adhere to standards of the Public Company Accounting Oversight Board (“PCAOB”) and ignored a number of red flags that indicated that Premier’s and CannaVEST’s financial statements did not conform to Generally Accepted Accounting Principles (“GAAP”) and contained material misstatements. As a result, Koch engaged in improper professional conduct during these engagements.

2. In addition, for Premier’s 2013 audit, despite his improper professional conduct, Koch provided his concurring approval to issue an audit report for Premier’s year-end financial statements in which the report inaccurately represented that A&C had conducted the audit in accordance with PCAOB standards and further misleadingly represented that, based on that audit, in A&C’s opinion, Premier’s financial statements presented fairly, in all material respects, the company’s financial position and results of operations in accordance with GAAP. As a result, Koch was a cause of A&C’s violation of Rule 2-02(b) of Regulation S-X.

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<sup>3</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.

## RESPONDENT

3. **Richard J. Koch, CPA**, age 62, of Westlake Village, California, is an A&C audit partner. Koch is a licensed CPA in California and Texas, and was a licensed CPA in Louisiana. Koch joined A&C in June 2013 as a partner and was the managing partner of A&C's Westlake Village office from July 2014 to June 2016. Koch served as the EQR for Premier's 2013 year-end audit, and as the EQR for CannaVEST's second and third quarter of 2013 interim reviews.

## OTHER RELEVANT PERSONS AND ENTITIES

### A&C Related Persons and Entities

4. **Anton & Chia, LLP** is a PCAOB registered audit firm since 2009 and a California limited liability partnership headquartered in Newport Beach, California, with additional offices in San Diego and Westlake Village, California. A&C was founded in 2009 by Georgia Chung ("Chung"), and is currently co-owned by Chung and her husband, Gregory Wahl ("Wahl"). A&C conducted Premier's 2013 year-end audit and CannaVEST's 2013 interim reviews.

5. **Gregory A. Wahl, CPA**, age 43, of Irvine, California, is A&C's managing partner, and co-owner with Chung. Wahl is a licensed CPA in California and New York, and a chartered accountant in British Columbia, Canada. Wahl served as the engagement partner for Premier's 2013 year-end audit and CannaVEST's 2013 interim reviews.

6. **Georgia Chung, CPA**, age 49, of Irvine, California, is A&C's co-owner with Wahl. Chung is a licensed CPA in California and Colorado. Chung served as the EQR for CannaVEST's first quarter of 2013 interim review.

7. **Tommy Shek, CPA ("Shek")**, age 34, of Rowland Heights, California, was an A&C audit manager. Shek is a licensed CPA in California. Shek worked at A&C from July 2011 through at least October 2015. From January 2013 to July 2014, Shek was an A&C audit manager. In July 2014, Shek was promoted by A&C to senior audit manager. Shek served as the audit manager for CannaVEST's 2013 interim reviews.<sup>4</sup>

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<sup>4</sup> On December 4, 2017, the Commission instituted an 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 and Notice of Hearing against A&C, Wahl, Chung, Shek, and Michael Deutchman, CPA (a former A&C audit partner) concerning their conduct in the audits and/or interim reviews for Premier, CannaVEST, and/or a third company, Accelera Innovations, Inc. ("Accelera") (Exchange Act Rel. No. 34-82206). Also on December 4, 2017, the Commission instituted an 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

## **Premier Related Persons and Entities**

8. **Premier Holding Corporation** is a Nevada corporation with its principal place of business in Tustin, California. At all relevant times, Premier was a self-described provider of a large array of energy services through its subsidiary companies. Premier's common stock is and was at all relevant times registered with the Commission pursuant to Section 12(g) of the Exchange Act and quoted on the OTC Link, under ticker PRHL. Premier 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. Premier's fiscal year ends on December 31. Throughout the relevant period, Premier raised funds through purportedly private sales of stock. For most of the relevant period, Premier was run, at least nominally, by Kevin Donovan and, from October 2012 on, by Randall Letcavage.

9. **WePower Ecolutions, Inc.** was a wholly-owned subsidiary of Premier formed in November 2011 for the purpose of "offer[ing] renewable energy production and energy efficiency products and services." In January 2013, Premier effectively sold the business and the name. On February 26, 2013, WePower Ecolutions' name was changed to Energy Efficient Experts (E3).

10. **WePower Eco Corp. ("New Eco")**, a Delaware corporation located in Aliso Viejo, California, effectively acquired WePower Ecolutions in January 2013.

11. **The Power Company USA, LLC ("TPC")** was a privately-owned deregulated power broker that brokered power to both residential and commercial users in the twelve states that allowed the distribution of deregulated power. Since February 28, 2013, TPC has been 80% owned by Premier.

## **CannaVEST Related Persons and Entities**

12. **CannaVEST Corp.** is a Delaware corporation headquartered in Las Vegas, Nevada. CannaVEST, originally a shell company named Foreclosure Solutions, Inc., changed its name to CannaVEST Corp. (OTCBB, ticker: CANV) on January 29, 2013. CannaVEST entered into the business of acquiring raw hemp product from suppliers in Europe and reselling it to third parties and also developing, producing, and selling consumer products that contain Cannabidiol ("CBD") oil (a type of hemp oil). In early January 2016, CannaVEST changed its name to CV Sciences, Inc. (OTCQB, ticker: CVSI), and claimed to develop pharmaceutical drugs that contain CBD oil. CannaVEST's common stock is registered with the Commission pursuant to Exchange Act Section 12(g).

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Imposing Remedial Sanctions and a Cease-and-Desist Order against Rahuldev Gandhi, CPA, a former A&C audit partner, concerning his conduct in an audit for Accelera (Exchange Act Rel. No. 34-82208).

13. **Michael J. Mona, Jr. (“Mona”)**, age 63, of Las Vegas, Nevada, is CannaVEST’s CEO and a board member. Mona became CannaVEST’s CEO in November 2012, and a board member in January 2013.<sup>5</sup>

## **FACTS**

### **2013 PREMIER AUDIT**

#### **Background**

##### ***Premier’s Fraudulent Valuation of the Note and the Gain on the Sale of the Worthless Assets***

14. In December 2011, Randall Letcavage and an associate (“Associate A”) acquired approximately 50% of Premier’s outstanding shares, paying \$175,000 in cash to the Company’s then-CEO and majority shareholder, and caused Premier to acquire certain assets from green energy companies owned entirely or in large part by either Letcavage or Associate A (“related-party green energy companies”) in exchange for additional Premier stock. Using these assets, and through a new wholly-owned subsidiary, WePower Ecolutions, Premier’s business changed from selling low-priced caskets to providing clean energy products and services. Letcavage and Associate A installed Kevin Donovan as CEO of WePower Ecolutions and as president and CEO of Premier itself.

15. Premier valued the assets obtained from the related-party green energy companies at zero, noting in its FY 2011 and FY 2012 financial statements that the assets had been obtained from the two related-party green energy companies and that the equipment obtained, originally valued at approximately \$16,000, had proven to be defective, and thus its value had been reduced to zero.

16. Premier’s performance following the change in business model remained poor, however, and its share price declined throughout 2012. In the fourth quarter of 2012, Letcavage and Associate A arranged for a management shake-up in which, among other changes, Letcavage joined the board of directors and replaced Donovan as Premier’s and WePower Ecolutions’ president and CEO and several board members were replaced. Under Letcavage’s management, Premier then decided to discontinue the operations of WePower Ecolutions and report a roughly \$750,000 loss on the discontinued operations.

##### ***The Discontinued-Operations-for-Note Swap***

17. In January 2013, after protracted negotiations with Donovan over his exit package, Premier effectively sold WePower Ecolutions to a newly-formed company (New Eco), to be run

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<sup>5</sup> On June 15, 2017, the Commission filed a civil injunctive action against CannaVEST and Mona in District Court in Nevada (Case No. 2:17-CV-01681-APG-PAL).

by Donovan. In exchange, New Eco gave Premier an unsecured note with a \$5 million face value (the “Note”), and purportedly assumed certain Premier liabilities (the “Discontinued-Operations-for-Note Swap”).

18. The terms of the Note were extremely generous to New Eco. Among other things, the Note was unsecured and secondary to all other debt New Eco might incur, the interest rate was below market at 2%, and repayment was scheduled over twenty years, with no principal payments due for five years and no interest due for eleven months. Neither the face amount nor the terms of the Note were based on a valuation, independent or otherwise, of the assets transferred to New Eco.

19. Given that the Note was received in exchange for assets and not cash, under GAAP, upon receipt the Note should have been “recorded at the fair value of the property, goods, or services or at the amount that reasonably approximates the fair value of the note [receivable], whichever is the more clearly determinable.” ASC 310-10-30-5, *Receivables*.

20. Premier management’s estimate of the fair value of the Note at the time of receipt was \$869,000 – a figure that was inconsistent with GAAP but rather was chosen to achieve the desired accounting result. The \$869,000 figure was the largest of three fair value figures that appeared on a document provided to Premier by an independent valuation firm the company had engaged to value the Note (“Valuation Firm”). This document, which Premier later characterized as a “preliminary valuation,” consisted solely of Excel spreadsheets illustrating the Valuation Firm’s valuation models, as applied to outdated and unsupported revenue projections for New Eco.<sup>6</sup> The Valuation Firm sought updated revenue projections and support for such projections from New Eco, and sought Premier’s help in getting such information, but never received it.<sup>7</sup>

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<sup>6</sup> The Valuation Firm needed current revenue projections for New Eco and support for the projections in order to value New Eco, the borrower. The Firm was trying to value the borrower, because the collectability of the Note was entirely dependent on the borrower’s (New Eco’s) ability to pay because the Note was unsecured and not guaranteed. The \$869,000 figure was one of the two – unsupported – figures for the fair value of New Eco that appeared on the spreadsheets; the third was a figure for the fair value of the Note.

<sup>7</sup> The Valuation Firm ultimately completed its work without the requested information, valuing the Note at zero and New Eco at less than \$10,000. The Firm’s findings and analysis were set forth in a draft valuation report, which the Firm sent to Premier management on or about April 9, 2014. As explained in the report, the Firm’s valuations were primarily based on the 2012 performance of WePower Ecolutions, which had not been known to the Firm when it generated the “preliminary valuation” and the terms of the Note. That information was, or should have been, known to Koch during the audit.

### ***The Note-for-Stock Swap***

21. The first payment on the Note – an interest payment of \$50,000 – was due on December 7, 2013. New Eco failed to make the payment and the Note went into default on December 22, 2013. Without assessing the Note for impairment or collectability, Premier continued to report the Note as an asset valued at \$869,000 on its December 31, 2013 balance sheet.

22. On or about February 27, 2014, Premier exchanged the Note with WePower LLC, a related party,<sup>8</sup> for the return of 2.5 million shares of Premier common stock held by WePower LLC (the “Note-for-Stock Swap”). WePower LLC was not only a related party; it was also the source of most of the worthless related-party green energy assets upon which New Eco’s business was based (and the discontinued WePower Ecolutions’ operations had been based).

23. Premier disclosed the Note-for-Stock swap in a Subsequent Events note to its 2013 financial statements. The company failed to disclose, however, that the Note was in default on December 31, 2013.

### ***Premier Improperly Accounted for its Stake in TPC***

24. On February 28, 2013, Premier acquired an 80% interest in TPC, along with an option to purchase the remaining 20% interest within 120 days, in exchange for 30 million shares of Premier common stock.

25. In its financial statements for the first three quarters of 2013 and its audited FY 2013 financial statements, Premier valued its interest in TPC at \$4.5 million – the purported value of the 30 million shares issued to the sellers as consideration for the acquisition – and allocated the entire amount to goodwill, which then constituted a majority of the company’s assets. The company explained that it had allocated the \$4.5 million amount to goodwill because an independent valuation of the identifiable assets and liabilities it had acquired had not yet been completed.

26. Premier’s accounting for its stake in TPC did not conform to GAAP in several respects. First, according to ASC 805, *Business Combinations*, before recognizing goodwill from an acquisition, all identifiable assets and liabilities acquired (including identifiable intangible assets) must be assigned a portion of the purchase price based on their fair values. Only after this

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<sup>8</sup> Related parties include owners of record or known beneficial owners of more than 10% of the voting interests of the entity and their immediate families. ASC 850-10-20. WePower LLC, which was owned by Associate A, was a related party because it was an owner of record or beneficial owner of more than 10% of Premier’s voting stock, directly and/or through another company purportedly controlled by Associate A’s son.

valuation of, and allocation to, identifiable assets is performed can the remaining unallocated purchase price be recorded as goodwill. If, as the company represented in public statements around the time it purchased TPC, Premier had acquired certain customer contracts and receivables that purportedly had value, to comply with GAAP, the company should have assigned a portion of the purported purchase price to such assets.<sup>9</sup>

27. Second, after recording the \$4.5 million in goodwill for its stake in TPC, Premier later failed to adequately assess that goodwill for impairment, in accordance with ASC 350-20-35, *Goodwill, Subsequent Measurement*.<sup>10</sup> Premier determined, incorrectly, that as of December 31, 2013, the \$4.5 million of goodwill attributable to its TPC stake – which constituted approximately 99% of its goodwill and 65% of its total assets reported as of December 31, 2013 – was not impaired. It was not until the fourth quarter of 2014 that Premier recognized any impairment to its TPC-related goodwill.

### **Koch's Engagement Quality Review of A&C's Audit of Premier's FY 2013 Financial Statements**

28. Koch served as the EQR on A&C's audit of Premier's FY 2013 financial statements. An auditor may not grant permission to the client to use the audit report without the EQR's concurring approval of issuance. PCAOB Standard AS No. 7.13, *Engagement Quality Review*. In an audit, an EQR should perform an evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report in order to determine whether to provide concurring approval of issuance. (AS No. 7.2). The EQR, among other things, should also evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks, AS No. 7.10, and evaluate whether the engagement documentation that he or she reviewed when performing the procedures required under the standard supports the conclusions reached by the engagement team with respect to the matters reviewed. (AS No. 7.11).

29. When he conducted his engagement quality review, Koch should have known of several risks associated with the audit. In planning the audit, the engagement team identified as significant risks and fraud risks: (a) the weakness in the company's control environment, (b) significant transactions between related parties, and (c) revenue recognition. The engagement

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<sup>9</sup> Premier engaged the Valuation Firm to prepare a purchase price allocation report, which would have assigned fair value estimates to the identifiable assets and liabilities the company had acquired from TPC, but failed to provide the Firm with the information it needed to perform its analysis. As a result, by the time of the 2013 audit, and to this day, the Valuation Firm prepared neither a report nor an underlying analysis.

<sup>10</sup> The PCAOB standards cited in this order are those that were in effect at the time of the relevant conduct being specifically discussed.

team also identified as significant risks, (d) the overstatement of assets, (e) the Note, and (f) goodwill and planned for the audit to focus on the collectability of the Note and related-party transactions and disclosures.

30. The engagement team had identified several risks specifically associated with the company's control environment with respect to financial reporting and disclosures, including the absence of an audit committee or a full-time CFO who was sufficiently competent to achieve financial reporting objectives, and the lack of effective controls over the financial close and reporting process.

31. As detailed below, in performing his engagement quality review of A&C's audit of Premier's 2013 financial statements, Koch failed to fulfill his responsibilities as EQR under PCAOB Standard AS No. 7, *Engagement Quality Review*, by failing to exercise due professional care as required by PCAOB Standards AS No. 7.12 and AU § 230, *Due Professional Care in the Performance of Work*.

32. The audit team made at least two significant judgments in the 2013 Premier audit: the judgments to (a) accept management's assertion of the fair value of the Note, and (b) accept management's allocation of the entire purported purchase price of the TPC acquisition to goodwill and its conclusion that no impairment to goodwill was required.

33. Koch reviewed the financial statements and the audit work papers, which included a version of the Valuation Firm's spreadsheets obtained from the Firm containing the same three fair value figures described above, a memorandum documenting the engagement team's review of the Valuation Firm's work, which the engagement team treated as the work of a specialist under PCAOB Standard AU § 336, *Using the Work of Specialist*, and a memorandum documenting the team's review of management's goodwill impairment analysis. From his review of those documents, Koch should have known that the engagement team had not responded adequately to significant risks, including fraud risks, and had not obtained sufficient appropriate audit evidence to support A&C's opinion that the financial statements properly (a) included the Note as an asset of Premier valued at \$869,000 and a source of \$985,138 in income, and (b) included the TPC stake with the entire purchase price allocated to goodwill.

34. In conducting the engagement quality review of A&C's audit of Premier's 2013 financial statements Koch failed to exercise the appropriate level of due professional care and professional skepticism. Examples of such failures include the following:

- Koch reviewed the Valuation Firm's preliminary valuation of the Note, but failed to notice or failed to raise with the engagement team the facts that (a) more than a year after the Discontinued-Operations-for-Note swap had occurred, the Valuation Firm had not issued a valuation report or other form of findings but instead issued only spreadsheets, (b) the figure used by management to represent the value of the Note was actually characterized on the Valuation Firm's spreadsheets as a fair value *of the borrower*, which was significantly higher than the figure that the Valuation Firm's spreadsheet

characterized as the fair value *of the Note*, (c) the Valuation Firm had identified the spreadsheets in the work papers as an analysis as of December 31, **2012**, and (d) although the Note was the largest tangible asset on the company's balance sheet, and its second largest asset overall, management had not recorded on the year-end income statement any accrued interest or any gain or loss as a result of change in the Note's fair value and management's asserted value of the Note had not been updated and/or revised from when the Note was issued in January 2013, nearly a year earlier.

- Koch should have known that (a) WePower LLC, the entity with which Premier exchanged the Note for the return of stock, was a related party and the party from whom Premier had originally acquired the assets, in exchange for stock, and thus the Note-for-Stock Swap was effectively the last stage in a round trip of essentially worthless assets, and (b) those essentially worthless assets, which had generated approximately \$750,000 in losses for 2012, were the basis of the borrower's business.

- Koch failed to notice or failed to raise with the engagement team that the work papers purportedly testing the valuation of the Note did not document the assumptions underlying the Valuation Firm's fair value figures, the reasons that the engagement team concluded that those assumptions were reasonable, or any testing by the engagement team of the data provided to and used by the Valuation Firm in the spreadsheets that were the basis of management's "preliminary valuation," as required by PCAOB Standards AU § 336, *Using the Work of Specialist*,<sup>11</sup> and AS No. 3, *Audit Documentation*.

- Koch failed to notice or failed to raise with the engagement team (a) management's allocation of the entire \$4.5 million TPC purported value to goodwill, and the absence from the work papers of an explanation for such allocation from either management or the audit team, (b) that no appraisal of the TPC identifiable assets acquired and liabilities transferred had been completed, either at the time the transaction was consummated in February 2013 or by the December 31, 2013 reporting date, ten months later; and (c) and that the audit team had failed to obtain sufficient appropriate evidence to

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<sup>11</sup> To use the findings of a specialist, the "auditor should (a) obtain an understanding of the methods and assumptions used by the specialist, (b) make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk, and (c) evaluate whether the specialist's findings support the related assertions in the financial statements." (AU § 336.12). PCAOB standards require accountants to document the procedures performed, evidence obtained, and conclusions reached. (AS No. 3.6). Audit documentation must contain information sufficient to allow an experienced auditor with no connection to the work to understand the procedures performed, evidence obtained, and conclusions reached and to determine who performed the work, when the work was completed, the person who reviewed the work, and the date of the review. (AS No. 3.6).

accept management's representations that goodwill based on the TPC acquisition had not been impaired since the acquisition.

## **2013 CANNAVEST INTERIM REVIEWS**

### **Background**

35. CannaVEST was originally a shell company with no operations, no revenues, and only \$431 in assets at December 31, 2012. In December 2012, the company entered into an agreement to buy PhytoSphere Systems, LLC ("PhytoSphere") from Medical Marijuana, Inc. ("MJNA") for a stated purchase price of \$35 million. On January 29, 2013, the PhytoSphere acquisition closed, and the company was transformed from a shell company into a business allegedly with over \$35 million in assets and operations in the hemp business.

36. In connection with the acquisition, on June 15, 2017, the Commission filed a civil injunctive action against CannaVEST and its CEO Mona (Case No. 2:17-CV-01681-APG-PAL). The Commission's complaint alleges that CannaVEST Corp. and Mona made material misrepresentations and/or misleading omissions on CannaVEST's quarterly reports filed with the SEC for its first three quarters of 2013.

37. The Commission's complaint alleges that in CannaVEST's Forms 10-Q for the first two quarters of 2013, CannaVEST and Mona overstated CannaVEST's total assets. The overstatements related to CannaVEST's acquisition of PhytoSphere in the first quarter of 2013 for a purported \$35 million purchase price. The Commission's complaint alleges that the PhytoSphere purchase agreement stated that CannaVEST would pay for PhytoSphere with CannaVEST shares and/or cash, and that CannaVEST would make these payments in five installments over the course of fiscal year 2013. The Commission alleges that Mona intended to pay the five installments primarily with CannaVEST shares and only a small amount of cash.

38. The Commission's complaint also alleges that the PhytoSphere purchase agreement stated that CannaVEST's shares would be valued at a minimum of \$4.50 and a maximum of \$6.00 per share (the "collar"). Mona, however, had no basis for assigning a value of \$4.50 to \$6.00 per share and Mona only came up with the collar in order to cap the number of shares provided to MJNA. The Commission further alleges that Mona did not know how much CannaVEST shares were worth because the shares were either not trading or had very little trading on the OTC market. The Commission's complaint alleges that Mona agreed to the purported \$35 million purchase price only because CannaVEST could pay it primarily with CannaVEST shares that had little or no trading volume at the time, and which Mona believed had little value, and a small amount of cash.

39. In addition, the Commission's complaint alleges that Mona knew that CannaVEST was paying substantially less than \$35 million to acquire the PhytoSphere business, that PhytoSphere was not worth \$35 million, and that CannaVEST would have never agreed to the purported purchase price if CannaVEST were required to pay cash for PhytoSphere. Nevertheless, Mona had CannaVEST record \$35 million worth of assets related to the PhytoSphere acquisition

on CannaVEST's balance sheet in its Form 10-Q for the first quarter of 2013. The Commission's complaint alleges that as a result, CannaVEST materially overstated its assets on its balance sheet for the first quarter of 2013. In its Form 10-Q for the second quarter of 2013, CannaVEST continued to report falsely the value of its assets related to the PhytoSphere acquisition.

40. In its Form 10-Q for the third quarter of 2013, the Commission's complaint alleges that CannaVEST and Mona wrote down the value of the assets related to the PhytoSphere acquisition to \$8 million after obtaining a third-party valuation of PhytoSphere as of January 29, 2013. The Commission alleges that CannaVEST, however, failed to disclose that it had never paid \$35 million for those assets, that the assets were never worth \$35 million, and that the balance sheets for the first and second quarters of 2013 were materially overstated. In April 2014, CannaVEST restated all three quarters to reflect \$8 million in assets related to the PhytoSphere acquisition on CannaVEST's balance sheet.

41. On \_\_\_\_\_, the Commission instituted an order that will be litigated against A&C and certain individuals that relates to, among other things, A&C's first through third quarter interim reviews of CannaVEST (Exchange Act Rel. No. \_\_\_\_\_). In that litigated order, the Commission alleges that CannaVEST and Mona treated the PhytoSphere acquisition as a business combination under GAAP. *See* ASC 805, *Business Combinations*, and ASC 820, *Fair Value Measurement*. The Commission further alleges that under ASC 805 and 820, CannaVEST and Mona should have determined the fair value of CannaVEST's stock (i.e., the fair value of the consideration) as of the acquisition date, January 29, 2013, and used this fair value to determine how much CannaVEST was paying to acquire PhytoSphere. The Commission alleges that CannaVEST and Mona, however, never determined the fair value of CannaVEST's shares as of January 29, 2013, and A&C failed to make inquiries of Mona for the fair value of the shares during CannaVEST's first quarter of 2013 interim review. The Commission's litigated order alleges, among other things, that had A&C made inquiries into the fair value of CannaVEST's shares, A&C would have become aware that material modifications to the total asset value on CannaVEST's balance sheet should have been made.<sup>12</sup>

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<sup>12</sup> CannaVEST ultimately provided a total of 5,825,000 restricted shares and paid \$950,000 in cash (borrowed from another entity) to MJNA during fiscal year 2013. CannaVEST and Mona never determined the fair value of CannaVEST's shares as of January 29, 2013. However, in September 2013, CannaVEST had an independent valuation done on its shares (related to another transaction) that found CannaVEST's unrestricted shares were worth \$1.13 per share and its restricted shares were worth \$0.68, as of August 21, 2013.

## **Koch Failed to Conduct Adequate Engagement Quality Reviews in CannaVEST's Q2 and Q3 2013 Interim Reviews**

42. Koch was the EQR for CannaVEST's Q2 and Q3 2013 interim reviews. PCAOB Standard AS No. 7, *Engagement Quality Review*, provides that an EQR in an interim review evaluates the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the interim review. To evaluate such judgments and conclusions, the EQR, to the extent necessary, holds discussions with the engagement partner and other team members and reviews documentation. (AS No. 7.14).

43. Furthermore, the EQR evaluates, among other things, the engagement team's significant judgments that relate to engagement planning, including the consideration of the company's business, recent significant activities, and related financial reporting issues and risks. In addition, the EQR reviews the interim financial information for all periods presented and for the immediately preceding interim period. (AS No. 7.15). The EQR also evaluates whether the engagement documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to the matters reviewed. (AS No. 7.16).

44. The EQR may provide a concurring approval of issuance only if, after performing his review with due professional care, he is not aware of a significant engagement deficiency. A significant engagement deficiency in an interim review includes but is not limited to: (1) the engagement team failing to perform interim review procedures necessary in the circumstances of the engagement; and (2) the engagement team reaching an inappropriate overall conclusion on the subject matter of the engagement. (AS No. 7.17).

45. Koch provided a concurring approval of issuance for CannaVEST's Q2 and Q3 2013 interim reviews. Koch, however, failed to conduct adequate engagement quality reviews and identify significant engagement deficiencies in these interim reviews. As a result, Koch should not have provided a concurring approval of issuance for the Q2 and Q3 interim reviews.

46. For the Q2 interim review, Koch discussed the PhytoSphere acquisition with the engagement team, knew that the acquisition was significant, and reviewed the PhytoSphere purchase agreement. Koch, however, failed to identify that the engagement team did not perform appropriate analytical procedures and did not make adequate inquiries of management related to PhytoSphere.

47. For the Q2 interim review, the engagement team failed to perform appropriate analytical procedures because they did not prepare balance sheet analytics that compared the Q1 2013 balance sheet to the Q2 2013 balance sheet. *See AU § 722.16, Analytical Procedures and Related Inquiries*, analytical procedures should include comparing the quarterly interim financial information with comparable information from the immediately preceding interim period. A&C's Q2 2013 balance sheet analytics only compared the FYE 2012 balance sheet to the Q2 2013 balance sheet. From Q1 to Q2 2013, CannaVEST made significant changes to the allocation of the \$35 million value among the individual assets related to the PhytoSphere

acquisition. For example, from Q1 to Q2, CannaVEST decreased the value of its rights to purchase CBD oil from \$11.5 million to \$947,388, and increased the value of its goodwill from \$17,535,000 to \$26,998,125. Appropriate balance sheet analytics would have shown these substantial changes in allocation between Q1 and Q2.

48. The Q2 balance sheet analytics only listed the new asset values, e.g. \$947,388 for rights to purchase CBD oil and \$26,998,125 for goodwill, and did not show how these Q2 asset values had changed significantly since Q1. Koch reviewed the balance sheet analytics, but failed to identify that the analytics did not compare Q1 to Q2. Had Koch identified and instructed the engagement team to perform a proper Q1 to Q2 analytical review, it would have revealed that CannaVEST made significant changes to the allocation of the \$35 million value among the individual assets related to the PhytoSphere acquisition, which should have raised a red flag with Koch regarding the accuracy of the \$35 million total asset value. This would have allowed Koch to instruct the engagement team to make inquiries into the fair value of the consideration that CannaVEST paid for PhytoSphere. Koch, however, failed to identify that the balance sheet analytics did not compare Q1 to Q2, failed to identify these significant changes in asset allocation, and as a result failed to identify this red flag that the \$35 million total asset value may be incorrect and that the engagement team should make inquiries into the fair value of the consideration.

49. For the Q3 interim review, Koch failed to identify that the engagement team did not consider whether a restatement of CannaVEST's Q1 and Q2 2013 financial information was necessary. In October 2013, CannaVEST obtained a valuation report from a third-party valuation firm that reported PhytoSphere was worth \$8 million as of January 29, 2013. Koch reviewed this valuation report. The valuation report should have been a red flag to Koch and the engagement team that the original \$35 million total asset value reported on CannaVEST's Q1 and Q2 balance sheets may be materially incorrect and needed to be restated. Koch, however, failed to identify that the engagement team did not consider whether a restatement of CannaVEST's Q1 and Q2 financial information was necessary.

50. For the Q2 and Q3 interim reviews, Koch failed to identify that the engagement team did not properly plan the interim reviews. CannaVEST and Mona failed to devise a sufficient system of internal accounting controls, such that transactions (like the PhytoSphere acquisition) were properly recorded to permit preparation of financial statements in accordance with GAAP and to maintain accountability of assets. In addition, CannaVEST lacked personnel with appropriate accounting qualifications. CannaVEST did not have a CFO from Q1 through Q3 2013, and its Forms 10-Q for those quarters stated that management had identified a material weakness in the effectiveness of internal control over financial reporting related to CannaVEST's lack of personnel with appropriate accounting qualifications. When planning the Q2 and Q3 interim reviews, the engagement team failed to consider and update their knowledge of CannaVEST's internal controls and lack of accounting personnel, did not assess whether these matters increased the risk of material misstatement, and did not plan their interim review procedures accordingly to address that risk. As a result, the engagement team failed to properly plan the Q2 and Q3 interim reviews, and Koch failed to identify these planning failures.

51. Moreover, Koch failed to identify that the engagement team did not have a sufficient understanding of CannaVEST's internal controls when they planned the Q2 and Q3 interim reviews. The engagement team's inquiries checklist for the Q2 and Q3 interim reviews indicated that CannaVEST did not have any significant deficiencies or material weaknesses in internal control over financial reporting. This directly contradicted CannaVEST's disclosure in its Forms 10-Q, which stated that management had identified a material weakness in internal control over financial reporting related to CannaVEST's lack of personnel with appropriate accounting qualifications.

52. Furthermore, for the Q2 and Q3 interim reviews, Koch failed to identify that the engagement team did not prepare adequate documentation. For example, for the Q2 interim review, Koch failed to identify that the balance sheet analytics did not compare Q1 to Q2. For the Q3 interim review, Koch failed to identify that the work papers did not discuss whether or not a restatement was necessary. For the Q2 and Q3 interim reviews, Koch failed to identify that the planning memos did not document CannaVEST's lack of internal accounting controls and accounting personnel, how the lack of controls and accounting personnel increased the risk of material misstatement, and how the engagement team planned to address that risk through interim review procedures.

#### **Koch Failed to Exercise Due Professional Care in CannaVEST's Q2 and Q3 2013 Interim Reviews**

53. PCAOB Standard AS No. 7, *Engagement Quality Review*, requires that an EQR perform his review with due professional care. (AS No. 7.17). Under PCAOB Standard AU § 230, *Due Professional Care in the Performance of Work*, due professional care requires that an accountant exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of the evidence. (AU § 230.07).

54. When Koch provided an engagement quality review for CannaVEST's Q2 and Q3 interim reviews, he failed to exercise due professional care and failed to exercise a sufficient level of professional skepticism. As a result, Koch failed to identify that the engagement team did not properly plan the interim reviews, properly assess the risk of material misstatement, consider how to address that risk through interim review procedures, and adequately document the interim reviews. Koch also failed to identify that the interim reviews had significant engagement deficiencies, such as the engagement team not performing adequate inquiries and analytics, and the engagement team failing to consider that CannaVEST's Q1 and Q2 financial information needed to be restated to conform to GAAP.

#### **FINDINGS**

55. Based on the foregoing, the Commission finds that Koch, related to his conduct in the 2013 year-end audit for Premier and the second and third quarter of 2013 interim reviews for CannaVEST, engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice by engaging in, as

provided under Rule 102(e)(1)(iv), at least a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted, or repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

56. Based on the foregoing, the Commission finds that Koch, related to his conduct in the 2013 year-end audit for Premier, was a cause of A&C's violation of Rule 2-02(b) of Regulation S-X, which requires an accountant's report to state whether the audit was made in accordance with generally accepted auditing standards.<sup>13</sup>

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Koch's Offer.

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

A. Koch shall cease and desist from committing or causing any violations and any future violations of Rule 2-02(b) of Regulation S-X.

B. Koch is denied the privilege of appearing or practicing before the Commission as an accountant.

C. After two years from the date of this Order, Koch 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 (other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act). Such an application must satisfy the Commission that Koch's work in his practice before the Commission as an accountant 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

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<sup>13</sup> Pursuant to Commission interpretive guidance, GAAS, as used in Regulation S-X, means the standards of the PCAOB and any applicable Commission rules. Securities Act Release No. 8422 (May 14, 2004).

- (2) 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 as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act. Such an application will be considered on a facts and circumstances basis with respect to such membership, and the applicant's burden of demonstrating good cause for reinstatement will be particularly high given the role of the audit committee in financial and accounting matters; and/or
- (3) an independent accountant.

Such an application must satisfy the Commission that:

- (a) Koch, or the public accounting firm with which he is associated, is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
- (b) Koch, or the registered public accounting firm with which he is associated, has been inspected by the PCAOB 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 Koch will not receive appropriate supervision;
- (c) Koch has resolved all disciplinary issues with the PCAOB, and has complied with all terms and conditions of any sanctions imposed by the PCAOB (other than reinstatement by the Commission); and
- (d) Koch acknowledges his responsibility, as long as he appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the PCAOB, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

D. The Commission will consider an application by Koch 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 dependent 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 Koch's character, integrity professional conduct, or qualifications to appear or practice before the Commission as an accountant. Whether an application demonstrates good cause will be considered on a facts and circumstances basis with due regard for protecting the integrity of the Commission's processes.

E. Koch shall pay a civil money penalty in the amount of \$15,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments: (1) \$5,000 within 10 days of entry of this Order; (2) \$2,500 within 90 days of entry of this Order; (3) \$2,500 within 180 days of entry of this Order; (4) \$2,500 within 270 days of entry of this Order; and (5) \$2,500 within 360 days of entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of the civil money penalty, plus any additional interest accrued pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application.

F. 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 Koch 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 Sanjay Wadhwa, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281.

G. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty

imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

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