UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 85081 / February 8, 2019

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4019 / February 8, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-18994

In the Matter of **Joseph S. Amundsen, CPA, Michael T. Remus, CPA, and Michael Remus CPA,** **Respondents.**	**ORDER INSTITUTING 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**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 4C(a)(2)[1] and (a)(3) and 21C of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 102(e)(1)(ii) and (iii)[2] of the Commission's Rules of Practice

[1] Section 4C provides, in relevant 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 . . . (1) not to possess the requisite qualifications to represent others . . . (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

[2] Rule 102(e)(1)(ii) and (iii) provide, in pertinent part, that:

> The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct; or to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

against Joseph S. Amundsen ("Amundsen"), Michael T. Remus ("Remus") and Michael Remus CPA ("Remus CPA" or the "Firm") (collectively "the Respondents").

II.

After an investigation, the Division of Enforcement alleges that:

SUMMARY

1. These proceedings arise out of multiple violations of the auditor independence requirements in audits conducted of seven broker-dealers in both 2015 and 2016. Specifically, Amundsen, a certified public accountant who in 1983 was permanently enjoined from appearing or practicing before the Commission in any way, served as the Engagement Quality Reviewer ("EQR") on fourteen audits of certain broker-dealers for which Amundsen's daughter was the financial and operations principal ("FINOP"). The engagement partner on these audits, Remus, of Remus CPA, was aware of Amundsen's familial relationship and nevertheless engaged him as EQR on these fourteen audits, and directed the Firm to issue audit reports for each of these clients that falsely stated that they were conducted in accordance with standards of the Public Company Accounting Oversight Board ("PCAOB").

A. RESPONDENTS

2. Respondent Amundsen, age 73, is a resident of Easton, Pennsylvania. Amundsen has been a certified public accountant ("CPA") in New York and California since 2002. He has been registered with the Public Company Accounting Oversight Board ("PCAOB") since 2008.

3. Respondent Remus, age 61, is a resident of Hamilton Square, New Jersey. Remus has been a CPA in New Jersey and Missouri since 1988, and he is a member of the American Institute of Certified Public Accountants. He has been registered with the PCAOB since at least 2014. Remus is the sole proprietor of his accounting firm, Remus CPA.

4. Remus CPA is a two-person accounting firm based in Remus's home in Hamilton Square, New Jersey. In addition to Remus (who is the Firm's sole proprietor), Remus CPA employs Remus' son. The Firm prepares audit and tax documents for individuals, small companies and broker-dealers, including broker-dealers that Respondent Amundsen and his daughter referred to Remus CPA for auditing services. Remus shares the Firm's income with his son, at his own discretion.

B. THE COMMISSION'S LITIGATION HISTORY WITH AMUNDSEN

5. In 1983, the Commission brought a civil action in the United States District Court for the Northern District of California (the "Civil Action") against Amundsen, alleging violations of the federal securities laws stemming from, among other things, Amundsen's sign-off on an audit report for a public issuer that falsely stated that the issuer's financial statements fairly presented its financial positions and results of its operations in conformity with generally accepted accounting principles, and that the audit was conducted in accordance with generally accepted auditing standards. That same year, Amundsen consented to an injunction, without admitting or denying the allegations of the complaint, that permanently enjoined Amundsen from (a) committing or causing future violations of the antifraud provisions of the federal securities laws, and (b) appearing or practicing before the Commission in any way.

6. On the basis of this injunction, in 1986, the California Board of Accountancy, revoked Amundsen's CPA license. Amundsen applied for reinstatement of his California CPA license, and for a New York CPA license, both of which were issued in 2002.

7. Notwithstanding the 1983 injunction, from approximately 2003 to 2011, Respondent Amundsen had a practice of auditing financial statements of broker-dealers, which financial statements, together with his audit reports, were filed with the Commission. In 2011, the Commission sought a contempt order in the Civil Action against Respondent Amundsen for violating the injunction against appearing or practicing before the Commission. The Court held that Amundsen "should never have begun the practice in question [of auditing financial statements of broker-dealers destined for filing with the Commission] in the first place," and that his "narrow reading [of the injunction] was unreasonable in light of the regulation, as it read then as well as now." The Court, although declining then to hold Amundsen in contempt, ordered him "to cease preparation of all audit reports destined for filing with the Commission, including audit reports on financial statements for broker dealers so destined for filing with the Commission."

8. In 2011, the Financial Industry Regulatory Authority ("FINRA") barred Respondent Amundsen from association with its member firms, based on his failure to disclose his litigation history with the Commission, and his regulatory history with the California State Board of Accountancy, on FINRA forms he submitted in order to serve as FINOP.

9. From approximately 2006 to 2010, while Respondent Amundsen was working as a FINOP at various broker-dealers, his daughter apprenticed for him in his FINOP work. In 2010, when Amundsen stopped serving as FINOP, his daughter became a licensed FINOP. Since then, she has served as a FINOP at more than twenty broker-dealers, including at least seven where Amundsen previously held that position.

C. RESPONDENTS' REGULATORY OBLIGATIONS AND PROFESSIONAL STANDARDS

Regulatory Obligations

10. Broker-dealers are required by Section 17(a)(1) of the Exchange Act and Rule 17a-5(d) thereunder to file annual reports containing, among other things, a financial report and a compliance report or an exemption report, as well as reports prepared by an independent public accountant covering the financial report and the compliance report or the exemption report. Under Rule 17a-5(f)(1), the independent public accountant must be qualified and independent in accordance with Rule 2-01 of Regulation S-X.[3] Pursuant to Exchange Act Rule 17a-5(g)(1) and (2), the independent public accountant engaged by the broker-dealer must undertake to prepare its reports, in accordance with standards of the PCAOB, based on an examination of the broker-dealers' financial report, and an examination of certain statements in the compliance report or a review of the exemption report. Rule 17a-5(d)(1)(i)(C), furthermore, generally requires that broker-dealers' annual reports include reports prepared by an independent public accountant under the engagement provisions of paragraph (g) of Rule 17a-5.

11. Rule 2-01(b) of Regulation S-X provides, among other things, that "the Commission will not recognize an accountant as independent, with respect to an audit client, if the accountant is not … capable of exercising objective and impartial judgment." In weighing independence, "the Commission will consider all relevant circumstances, including all relationships between the accountant and the audit client."

12. Rule 2-01(c)(2)(ii) of Regulation S-X specifically provides that independence is impaired if "a close family member of a covered person in the [audit] firm is in an accounting role or financial reporting oversight role at an audit client, or was in such a role during any period covered by an audit."

13. Rule 2-01(f)(9) of Regulation S-X explicitly provides that a "close family member" includes a nondependent child. Rule 2-01(f)(11) of Regulation S-X provides that a "covered person" includes partners, principals, shareholders and employees on the audit team. Rule 2-01(f)(3)(i) provides that an "accounting role" means a role in which a person exercises, or is in a position to exercise, more than minimal influence over the contents of accounting records, or over anyone who prepares them.

14. Pursuant to its Auditing Standard ("AS") 7 (currently titled AS 1220) issued on July 28, 2009, the PCAOB requires an engagement quality review for each audit engagement undertaken by the independent public auditor, and, among other things, that the EQR have "competence, independence, integrity, and objectivity." Under PCAOB AS 1220, an EQR from outside the accounting firm is, for independence purposes, considered an "audit partner" and "member of the audit team" under these definitions.

---

[3] 17 C.F.R. § 210.2-01.

15. PCAOB Rule 3520, furthermore, also directly requires that "[a] registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement." For this purpose the PCAOB requires the firm and its associated persons to comply with "the independence criteria set out in the rules and regulations of the Commission under the federal securities laws." PCAOB Auditing Standards ("AU")[4] also state that "[i]n all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors," AU § 150.02, and that independent auditors should "not only be independent in fact," but that they should "avoid situations that may lead outsiders to doubt their independence." AU § 220.03. In expressly allowing accounting firms to engage EQRs from outside the firm, the PCAOB noted that in such circumstances, the firm would "likely need to make additional inquiries to obtain necessary information about the individual's qualifications," including information about the EQR's independence. AS 1220.

16. Each of the foregoing regulatory obligations were in effect and applicable to Respondents at all relevant times.

Professional Standards

17. Under PCAOB System of Quality Control for a CPA Firm's Accounting and Auditing Practice ("QC"), Section 20, auditors are required to maintain a system providing it with reasonable assurance that its personnel comply with applicable professional standards, "[b]ecause of the public interest in the services provided by and reliance placed on the objectivity and integrity of, CPAs." These quality control systems are required to include assurances and monitoring of, among other things, the integrity, objectivity, independence, impartiality and competence or auditor personnel. QC § 20.02. Under QC § 20.09, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel maintain independence (in fact and appearance) in all required circumstances." An auditing firm is required to have policies and procedures relating to personnel that maintain the quality of the firm's work, which "ultimately depends on the integrity, objectivity, intelligence, competence, experience, and motivation of personnel who perform, supervise, and review the work." QC § 20.12. Finally, quality control systems for auditing firms require ongoing monitoring of the various elements to provide reasonable assurance that the "elements of quality control … are suitably designed and are being effectively applied." QC § 20.20.

18. Auditing standards also require that an auditor plan and perform his or her work with due professional care. AU § 230.02. Due professional care concerns "what the independent auditor does and how well he or she does it," requiring the auditor to, among other things, exercise auditing skills "with 'reasonable care and diligence' (that is, with due professional care)." AU § 230.04-.05.

[4] The PCAOB adopted as interim standards, on a transitional basis, the auditing standards promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants as in existence on April 16, 2003, to the extent not superseded or amended by the PCAOB. See PCAOB Rule 3200T, Interim Auditing Standards. Standards identified by the letters "AU" are such standards

19. Each of the foregoing professional standards were in effect and applicable to Respondents at all relevant times.

D. AMUNDSEN'S EQR WORK ON BROKER-DEALER AUDITS

20. In 2015 and again in 2016, Remus and Remus CPA engaged Amundsen to be the EQR on a total of 28 year-end audits of at least sixteen broker-dealers for the fiscal years ended December 31, 2014, and December 31, 2015. Amundsen's daughter was the FINOP for seven of these broker-dealers. Remus and Remus CPA thus engaged Amundsen to be EQR on a total of fourteen audits of broker-dealer clients for these two audit periods where the FINOP was Amundsen's daughter. Remus and Remus CPA received fees in connection with these fourteen audits in an amount not less than $35,000, and Amundsen received fees for his EQR services on these fourteen audits in an amount not less than $7,000.

21. As FINOP for these seven broker-dealers, Amundsen's daughter had final responsibility for their financial reports and record-keeping obligations, including reconciliation of bank and brokerage statements, calculation of net capital, signing and filing FOCUS reports and supplemental statement of income reports.

22. Amundsen and his daughter maintained a close and mutually supportive professional and business relationship of long-standing, in addition to their close familial relationship, before and during Amundsen's EQR work for Remus CPA. For example:

a. Amundsen's daughter apprenticed for Amundsen in his FINOP business as a bookkeeper and accountant for approximately four years before 2010.

b. When Amundsen's daughter became a FINOP, Amundsen regularly conferred with her in her transition into the position, and provided informal assistance to her. In at least one instance, Amundsen unsuccessfully attempted to prevent a broker-dealer from terminating his daughter as FINOP by threatening to quit as the tax preparer for the broker-dealer's president.

c. At one broker-dealer ("Broker-Dealer A"), for which Amundsen was acting as EQR and his daughter was FINOP, Amundsen personally assisted the broker-dealer in a 2015 SEC examination, and also personally intervened to negotiate his daughter's fees.

d. At another broker-dealer for which Amundsen was EQR and his daughter was FINOP (and for which Amundsen had

previously acted as FINOP) ("Broker-Dealer B"), Amundsen remained personally involved in resolving operational and accounting issues.

e. Amundsen's daughter has regularly referred tax preparation clients to Amundsen for his side business as a tax preparer.

23. At the time Respondents Remus and Remus CPA engaged Amundsen as EQR, Remus knew of the father-daughter relationship between Respondent Amundsen and his daughter, and that Amundsen's daughter was the FINOP for seven of the broker-dealer clients that Remus CPA was auditing, and for which he had engaged Amundsen to act as EQR.

24. Respondents each knew, or recklessly and/or unreasonably disregarded, that Amundsen's relationship with his daughter impaired their independence in connection with the audits they participated in, and for the audit reports they signed and participated in, for the broker-dealer clients for which Amundsen's daughter was FINOP.

25. Remus and Remus CPA prepared a letter for Amundsen to sign, and Amundsen signed it, stating that Amundsen was aware of the independence standards, that Amundsen was independent with respect to eleven broker-dealers named in the letter (including six named broker-dealers where Amundsen's daughter was currently the FINOP), and that he had "no relationships that may be reasonably thought to bear on my independence." Remus and Amundsen both knew, or recklessly or unreasonably disregarded, that these assertions of Amundsen's independence were false.

26. For each audit engagement in which Amundsen served as EQR for Remus and Remus CPA, he participated in pre-audit engagement team discussions about identifying and addressing significant risks; completed an extensive checklist for each audit of all the items he reviewed and approved, including checking net capital calculations for each broker-dealer; proofreading the underlying financial statements, making corrections and fixing typographical errors as necessary; and approved the audit with his signature. Following Amundsen's approval, Respondent Remus CPA released the audit report to its broker-dealer clients for inclusion in their annual filings with the Commission.

27. Remus and Remus CPA submitted purportedly independent public accountant's reports for these fourteen audits that falsely represented that their audits were conducted in accordance with the standards of the PCAOB. In turn, their broker-dealer clients submitted fourteen statements with their annual reports for 2015 and 2016 that falsely represented that Remus CPA had conducted its audits in accordance with the standards of the PCAOB.

E. VIOLATIONS

28. As a result of the conduct described above, Respondent Remus CPA willfully violated Exchange Act Rules 17a-5(g) and (i) by conducting fourteen audits in 2015 and 2016 for the 2014 and 2015 audit periods that were not in accordance with the standards of the PCAOB, and by causing broker-dealers to file reports in connection with each that falsely represented that they were conducted in accordance with standards of the PCAOB.

29. As a result of the conduct described above, Respondents Remus and Amundsen willfully aided and abetted, and/or caused, the foregoing violations of Rules 17a-5(g) and (i) by Remus CPA.

30. As a result of the conduct described above, Respondents Remus CPA, Remus and Amundsen caused at least seven broker-dealers to violate Section 17(a) of the Exchange Act and Rule 17a-5(f) for the 2014 and 2015 audit periods, when these broker-dealers, based on the false representations in the Firm's independent public accountant's report, submitted annual reports to the Commission including reports by an accountant who was not independent.

31. As a result of the conduct described above, Respondents Remus CPA and Remus 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: (i) not maintaining independence in connection with the fourteen audits and professional engagement periods for the seven broker-dealers for which Amundsen's daughter was FINOP, and Remus CPA engaged Amundsen as the EQR in violation of the Commission's independence requirements; (ii) failing to have policies and procedures that provide reasonable assurance that personnel maintain independence, integrity, and objectivity, and that such policies were monitored; and (iii) failing to exercise due professional care when it engaged Respondent Amundsen as EQR on at least fourteen audits where his daughter prepared the financial statements subject to the audit.

32. As a result of the conduct described above, Respondent Amundsen 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 acting as EQR in connection with the fourteen audits and professional engagement periods for the seven broker-dealers for which his daughter was FINOP, in violation of the Commission's independence requirements.

33. As a result of the conduct described above, Respondents Remus and Amundsen willfully aided and abetted violations of Exchange Act Rules 17a-5(g) and (i) and are subject to relief pursuant to Section 4C(a)(3) of the Exchange Act and Rule 102(e)(1)(iii) of the Commission's Rules of Practice.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. Whether, pursuant to Section 21C of the Exchange Act, Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Exchange Act and Rule 17a-5 thereunder; whether Respondents should be ordered to pay a civil penalty pursuant to Section 21B(a) of the Exchange Act; and whether Respondents should be ordered to pay disgorgement pursuant to Sections 21B(e) and 21C(e) of the Exchange Act; and;

C. Whether, pursuant to Section 4C of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice, Respondents should be censured or denied, temporarily or permanently, the privilege of appearing or practicing before the Commission in any way.

IV.

IT IS ORDERED that a public hearing before the Commission for purposes of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

IT IS FURTHER ORDERED that the Division of Enforcement and Respondents shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If any Respondent fails to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him or it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f)

and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents by any means permitted by the Commission's Rules of Practice.

Attention is called to Rule 151(b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed with the Office of the Secretary and all motions, objections, or applications will be decided by the Commission. The Commission requests that an electronic courtesy copy of each filing should be emailed to APFilings@sec.gov in PDF text-searchable format. Any exhibits should be sent as separate attachments, not a combined PDF.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230, 231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) the completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) the completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) the determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155 and no public hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Brent J. Fields
Secretary