

SEC Charges BDO and Five Partners in Connection With False and Misleading Audit Opinions

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Washington D.C., Sept. 9, 2015 — The Securities and Exchange Commission today charged national audit firm BDO USA with dismissing red flags and issuing false and misleading unqualified audit opinions about the financial statements of staffing services company General Employment Enterprises.

The SEC also charged five of the firm's partners for their roles in the deficient audits, and filed fraud charges against the client company's then-chairman of the board and majority shareholder **Stephen B. Pence**, who is a former U.S. attorney and a former lieutenant governor of Kentucky.

BDO agreed to admit wrongdoing, pay disgorgement of its audit fees and interest totaling approximately \$600,000, and pay a \$1.5 million penalty in addition to complying with undertakings related to its quality controls. The five partners also agreed to settle the charges against them. Two former CEOs of General Employment agreed to settle separate charges, and the litigation continues against Pence.

"Audit firms must train their audit and national office professionals not only to recognize red flags but also to have the resolve to refuse signing off on an audit if there are unresolved material issues," said Andrew Ceresney, Director of the SEC's Division of Enforcement. "BDO failed to do that here, even though these issues were elevated to the highest levels of its audit practice."

According to the SEC's orders instituting settled administrative proceedings against BDO and the partners:

- Near the end of BDO's 2009 audit of General Employment, BDO was advised by the company that \$2.3 million purportedly invested in a 90-day nonrenewable CD wasn't repaid by the bank upon its maturity date. BDO also learned that a bank employee indicated there was no record of a CD being purchased from the bank. The \$2.3 million represented approximately half of the company's assets and substantially all of its cash.
- BDO then received multiple conflicting stories from company management and board members about the status of the purported CD, and the company received a series of deposits totaling \$2.3 million from three entities unaffiliated with the bank. One entity was purportedly owned by Pence.
- After BDO raised more questions, the company claimed the deposits were proceeds of an agreement to assign the purported CD to an unrelated party in return for the value of the CD. But BDO never received reasonable and coherent explanations about why the \$2.3 million went missing and why an equivalent amount was later received by the company under suspicious circumstances.
- BDO's engagement partner on the audit **Sean C. Henaghan** and concurring reviewer **John E. Rainis** subsequently consulted with senior BDO partners including regional technical director

James J. Gerace, national director of accounting **Leland E. Graul**, and national SEC practice director **Wendy M. Hambleton**.

- BDO then issued a five-page letter to the company highlighting the conflicting information and demanding an independent investigation overseen by the audit committee.
- But just days later despite no reasonable explanation from the company, BDO withdrew its demand and subsequently issued unqualified opinions on the financial statements included in General Employment's 2009 and 2010 annual reports.

Without admitting or denying the SEC's findings, Henaghan, Rainis, Gerace, and Graul agreed to be suspended from practicing public company accounting for varying periods. Henaghan agreed to pay a \$30,000 penalty, Rainis agreed to pay a \$15,000 penalty, and Gerace, Graul, and Hambleton each agreed to pay \$10,000 penalties.

According to the SEC's complaint filed against Pence in federal court in Manhattan:

- Pence made materially misleading statements and omissions to BDO audit professionals in response to questions about the purported \$2.3 million CD and dubious related-party transactions.
- Pence signed the company's 2009 annual report despite knowing it included misleading statements and omissions about the missing \$2.3 million and related-party transactions.
- Pence created the false appearance that he was acting independently in his capacity as the majority shareholder and chairman of General Employment when in fact he was acting as an agent for a convicted felon named Wilbur Anthony Huff, who had funded Pence's purported acquisition of a majority stake in the company.
- Pence received at least a half-million dollars from Huff in 2009 and 2010 as well as a luxury Cadillac Escalade valued at approximately \$50,000.
- Huff has since received a prison sentence in a criminal action related to his intricate involvement in a wide-ranging conspiracy, which included misappropriating the \$2.3 million in question from General Employment.

The SEC's complaint charges Pence with violating Section 10(b) of the Securities Exchange Act of 1934 and Rules 10b-5 and 13b2-2. The SEC is seeking permanent injunctions, disgorgement of ill-gotten gains plus prejudgment interest and penalties, and an officer-and-director bar.

The SEC separately charged former General Employment CEOs **Ronald E. Heineman** and **Salvatore J. Zizza** with making materially misleading statements and omissions to BDO. Without admitting or denying the findings, they consented to SEC orders requiring them to each pay \$150,000 penalties.

"Company executives and board members have an obligation to tell auditors the complete truth about corporate events and transactions," said Andrew M. Calamari, regional director of the SEC's New York office. "We allege that Pence misled auditors and investors while acting as a front man for a convicted felon who was actively scheming to misuse company funds."

The SEC's investigation was conducted by Wendy Tepperman, Mark Germann, Kenneth Gottlieb, and Nicholas Pilgrim of the New York office. The SEC's litigation against Pence will be led by Mr. Pilgrim and Mr. Germann. The case is being supervised by Sanjay Wadhwa. The SEC appreciates the assistance of the U.S. Attorney's Office for the Southern District of New York, Federal Bureau of Investigation, and New York State Department of Financial Services.

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Related Materials

- [SEC order against BDO](#)
- [SEC order against Gerace, Graul, Hambleton, Henaghan, and Rainis](#)
- [SEC order against Heineman](#)
- [SEC order against Zizza](#)
- [SEC complaint against Pence](#)