

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 80872 / June 7, 2017

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3873 / June 7, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-18013

In the Matter of

DAN (“ALICE”) ZHANG,
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 Dan (“Alice”) Zhang, CPA (“Zhang” or “Respondent”), pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice.²

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 thereunder.

² Rule 102(e)(1)(iii) provides, in pertinent part, that:

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (“Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceeding 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 her 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 that:

Summary

1. These proceedings involve insider trading by Zhang, a certified public accountant (“CPA”), who was employed as a director by Deloitte & Touche, LLP (“D&T”). Zhang learned material nonpublic information that D&T client Coherent, Inc. (“Coherent”) planned to acquire Rofin-Sinar Technologies, Inc. (“Rofin-Sinar”). While in possession of this information, Zhang purchased 1,110 shares of Rofin-Sinar stock in a brokerage account held in the name of a close relative. On March 16, 2016 Coherent announced it would acquire Rofin-Sinar. The following day Rofin-Sinar’s stock price increased 37% over the prior day’s closing price, resulting in Zhang profiting from the trading by \$7,451.05.

Respondent

2. Zhang, age 42, resides in Sunnyvale, California, and since 2005 has been a CPA licensed by the State of California. Until July 2016, Zhang was a director at D&T. From July 2013 to July 2016, Zhang served as a senior manager and client service managing director on the Coherent audit team.

Relevant Entities

3. Rofin-Sinar is a Delaware corporation headquartered in Plymouth, Michigan. Rofin-Sinar’s common stock was registered with the Commission pursuant to Section 12(b) of the

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Exchange Act and traded on NASDAQ under the symbol “RSTI.” As a result of its acquisition by Coherent, its listing on NASDAQ was discontinued.

4. Coherent is a Delaware corporation headquartered in Santa Clara, California. Coherent’s common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on NASDAQ under the symbol “COHR.” During the relevant period, Coherent was an audit client of D&T.

5. D&T is organized as a limited liability partnership under the laws of the State of Delaware headquartered in New York, New York. Since 2003, D&T has been registered, pursuant to the Sarbanes Oxley Act of 2002, with the Public Company Accounting Oversight Board.

Facts

6. Zhang owed a duty of trust and confidence to her employer, D&T, and her misuse of information she learned in the course of her employment was a violation of that duty. She was also subject to D&T’s code of ethics and professional conduct, which prohibited employees from trading while in possession of confidential information of D&T clients. These policies defined “confidential information” as “any information obtained from the client that is not available to the public” and stated that such information could not be used for personal advantage. The policies expressly directed that D&T employees could not seek to profit from inside information through buying or selling securities or enabling others to do so. Zhang signed an acknowledgment indicating that she read, understood, and agreed to comply with these policies.

7. Zhang, as a member of D&T’s Coherent audit team, learned material nonpublic information that Coherent purchased shares of Rofin-Sinar and later that Coherent was in negotiations to acquire Rofin-Sinar.

8. On January 29, 2016, while in possession of the material nonpublic information, Zhang logged into a close relative’s online brokerage account and purchased 1,110 shares of Rofin-Sinar stock at \$24.74 per share. The relative had previously given her the logon credentials for the account.

9. Zhang knew, or was reckless in not knowing, that this purchase was in breach of her duty to her employer, D&T, and was in violation of D&T’s policies prohibiting insider trading.

10. On March 16, 2016, Coherent announced after market hours that it signed a definitive agreement to acquire Rofin-Sinar for \$32.50 per share in an all cash offer.

11. On March 17, 2016, Rofin-Sinar’s stock closed at \$31.39 per share, an increase of 37% over the prior day’s closing price of \$22.91 per share, and trading volume increased 5,613% from the prior day’s trading.

12. On March 18, 2016, Zhang's relative sold all 1,110 of the Rofin-Sinar shares at \$31.47 per share realizing profits of \$7,451.05. Thereafter, Zhang received the trading profits.

13. On July 21, 2016, D&T forwarded to Zhang an inquiry from the Financial Industry Regulatory Authority requesting that any person with prior knowledge of the Rofin-Sinar acquisition identify any individuals included on a list of traders. Zhang saw her relative's name on the list. Zhang resigned from D&T and self-reported to D&T and the Commission staff her purchase of Rofin-Sinar shares through her relative's account.

Zhang's Cooperation

14. In determining to accept the Offer, the Commission considered the cooperation afforded by Respondent to the Commission staff.

Findings

15. As a result of the conduct described above, Zhang willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

IV.

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

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

A. Zhang shall cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

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

C. After five (5) years from the date of this order, Zhang may request that the Commission consider her 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. Such an application must satisfy the Commission that Respondent's work in her practice before the Commission will be reviewed either by the independent audit committee of the public company for which she works or in some other acceptable manner, as long as she practices before the Commission in this capacity;

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 Securities Exchange Act of 1934. 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) Respondent, or the public accounting firm with which she is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
 - (b) Respondent, or the registered public accounting firm with which she is associated, has been inspected by the Board 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 the respondent will not receive appropriate supervision;
 - (c) Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and
 - (d) Respondent acknowledges her responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, 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 Zhang to resume appearing or practicing before the Commission provided that her state CPA license is current and she 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 Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission. 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. Respondent shall, within 10 days of the entry of this Order, pay disgorgement of \$7,451.05, prejudgment interest of \$200.43, and a civil money penalty in the amount of \$7,451.05 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). If timely payment of disgorgement is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. If timely payment of a civil penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

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 Zhang 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 Diana K. Tani, Division of Enforcement, Securities and Exchange Commission, 444 S. Flower Street, Ninth Floor, Los Angeles, California 90071.

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, she shall not argue that she is entitled to, nor shall she 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 she 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