

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 64471 / May 11, 2011

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3278 / May 11, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14379

In the Matter of	:	
	:	
	:	
	:	
MICHAEL HIGGINS, CPA	:	ORDER INSTITUTING CEASE-AND-DESIST
	:	PROCEEDINGS PURSUANT TO SECTION
	:	21C OF THE SECURITIES EXCHANGE ACT
	:	OF 1934, MAKING FINDINGS, AND
Respondent.	:	IMPOSING A CEASE-AND-DESIST ORDER
	:	
	:	

I.

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

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

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

Summary

1. This matter involves violations of the federal securities laws by Higgins in connection with improper revenue accruals by Michael Baker Corporation ("Michael Baker" or the "Company") which led to the material overstatement of the company's revenue and net income in Commission filings.

2. As the former Chief Financial Officer of Michael Baker's energy business segment, Baker Energy, Higgins regularly approved month-end manual journal entries that had been made by Baker Energy's Manager of Project Accounting, but did not review the supporting documentation for the manual journal entries as part of his approval process. Certain of these manual journal entries were not in accordance with generally accepted accounting principles (GAAP), resulting in the Company's material overstatements of revenue and net income in its financial statements contained in the Form 10-K for its fiscal year 2006 (filed March 16, 2007) and in the Forms 10-Q for the first three quarters of its fiscal year 2007 (filed May 8, 2007, August 7, 2007, and November 5, 2007, respectively).

3. On Friday, February 22, 2008, Michael Baker first announced through a press release posted to its website that it would restate its consolidated financial statements for the first, second and third quarters of 2007 as a result of "the improper recognition of revenue on domestic managed services projects during these periods" by Baker Energy. On June 30, 2008, Michael Baker filed its Form 10-K for fiscal year ended December 31, 2007, which included its restated financial statements for its Form 10-K filed for the fiscal year ended December 31, 2006. Subsequently, the Company restated the results of its quarterly financial statements for each of the first three quarters of 2007 in a series of restatements tied to the quarterly filings of its 2008 Forms 10-Q.

4. Michael Higgins caused Michael Baker's violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13, due to acts or omissions that he knew or should have known would contribute to such violations.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Respondent

5. **Michael Higgins**, age 61, was the Chief Financial Officer in Michael Baker's Baker Energy division from 2006 to 2008. Higgins is currently self-employed as a financial and strategic consultant.

Issuer

6. **Michael Baker Corporation** is a Pennsylvania corporation headquartered in Moon Township, Pennsylvania ("Michael Baker" or the "Company"). Michael Baker's business, at the time of the conduct at issue, was divided into two segments: Engineering and Energy. The Engineering division focused on design and consulting services primarily in the United States. The Energy division, Baker Energy, was headquartered in Houston, Texas and focused on the provision of oil related services both in the United States and abroad. Baker Energy typically generated roughly 35-40% of the Company's consolidated gross revenues.

Background

7. Baker Energy provided labor and services to operate and maintain oil and gas production facilities owned by third parties. The improper accounting that led to the Company's restatements related to Baker Energy's work on three large projects for its clients Storm Cat Energy, J.M. Huber Corporation and Escambia Operating Company. The Storm Cat and Huber contracts were among the Company's largest contracts and including the Escambia project represented nearly eighty percent of Baker Energy's revenues.

8. For the 2006 annual reporting period and the first three quarters of 2007, the Company inappropriately overstated Baker Energy's revenue, and, as a result, the Company's consolidated financial statements for these periods materially misstated its net income. The Company overstated its consolidated net income by \$1.5 million or 13% for 2006 and by \$1.5 million or 49%, \$2.4 million or 28%, and \$1.9 million or 30% for the first, second and third quarters of 2007, respectively. These revenue overstatements caused Baker Energy to show operating income, rather than operating losses, for the first and third quarters of 2007.²

9. Michael Baker predominantly generated revenues on the Storm Cat, Huber and Escambia projects through "cost plus" contracts pursuant to which the Company billed the respective clients for project costs plus an agreed-upon margin. There were exceptions as to certain costs, such as vehicle costs on the Huber and Storm Cat projects that were contractually agreed to be "non-billable," meaning that the client would not reimburse Baker Energy for the

² In the first quarter of 2007, Baker Energy's overstatement caused it to report \$900,000 of operating income rather than \$2 million of operating losses. In the third quarter of 2007, Baker Energy's overstatement caused it to report \$1 million of operating income rather than \$1.4 million of operating losses.

cost. In addition, one of the Storm Cat projects was a fixed-fee contract for the operation and maintenance of various wells, meaning that all of the costs on this project were “non-billable.”

10. In operating the oil and gas production facilities for third parties, Baker Energy’s ability to recoup costs through reimbursement depended on the terms of its contracts with the customers. Baker Energy finance employees were required to regularly review project costs and determine whether the costs were “billable” to the client or “non-billable” and accordingly record the costs in Baker Energy’s Oracle Project Accounting (PA) Module on a monthly basis. If the project costs were coded as billable, then the PA Module would automatically record revenue. Because the PA Module automatically posted to the General Ledger, Baker Energy’s employees were required to enter any reconciling and correcting manual journal entries to the General Ledger during each monthly close process in order to properly record the company’s project costs. Typically, hundreds of manual journal adjustments were done each month.

11. As Baker Energy’s CFO, Higgins was responsible for overseeing Baker Energy’s Manager of Project Accounting. The Manager of Project Accounting posted entries into the PA Module as well as posted reconciling and correcting manual journal entries into the General Ledger. Higgins also was required to approve the manual journal entries posted by the Manager of Project Accounting. This approval process was a key component of Baker Energy’s internal controls to prevent or detect any inappropriate manual journal entries.

12. From the fourth quarter of 2006 through the first three quarters of 2007, Baker Energy’s project accounting group, led by the Manager of Project Accounting—whom Higgins as the CFO was ultimately responsible for—improperly entered costs as billable on the Storm Cat, Huber and Escambia projects and thereby caused the material misstatements that led to the company’s 2008 restatement announcement.

13. Until November 2006, the Manager of Project Accounting directly reported to Baker Energy’s Assistant Controller-Domestic, who reviewed and approved the proposed manual journal entries. When the Assistant Controller-Domestic left the Company in November 2006, he informed Higgins that the Manager of Project Accounting’s work could not be relied on without close supervision and oversight. Although Higgins was ultimately responsible for ensuring the accuracy of the manual journal entries and knew that the Manager of Project Accounting’s direct supervisor had departed, Higgins did not review any supporting documentation for the manual journal entries as part of his approval process.

14. Moreover, Higgins knew or should have known that the controls Baker Energy had in place for reviewing manual journal entries were inadequate and that they relied heavily on a monthly review by him of all of the manual journal entries. Despite readily acknowledging the inadequacy of this particular control, he took no steps to improve this particular control and failed to properly implement it as a result of his own inadequate review.

15. As a result of the conduct described above, Higgins caused Michael Baker’s violations due to acts or omissions that he knew or should have known would contribute to the

following violations: Section 13(a) of the Exchange Act and Rules 13a-1, 13a-13 and 12b-20 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission information, documents, and annual and quarterly reports as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading.

16. Also as a result of the conduct described above, Higgins caused Michael Baker's violations due to acts or omissions that he knew or should have known would contribute to violations of Section 13(b)(2)(A) of the Exchange Act, which requires reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets, and caused Michael Baker's violations of Section 13(b)(2)(B) of the Exchange Act, which requires every issuer to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management's general or specific authorization; and (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the relief agreed to in Respondent Michael Higgins' Offer.

Accordingly, it is hereby ORDERED that:

Pursuant to Section 21C of the Exchange Act, Respondent Michael Higgins cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13.

By the Commission.

Elizabeth M. Murphy
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order ("Order") on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
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