

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 90008 / September 25, 2020

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4172 / September 25, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-20075

In the Matter of

JAMES L. THOMPSON, CPA,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 4C OF THE
SECURITIES EXCHANGE ACT OF
1934 AND RULE 102(e) OF THE
COMMISSION'S RULES OF
PRACTICE, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative proceedings be, and hereby are, instituted against James L. Thompson, CPA (“Thompson” or “Respondent”) pursuant to Section 4C¹ of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) 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 ... (2) ... to have engaged in unethical or improper professional conduct

² Rule 102(e)(1)(ii) provides, 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.

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 purposes 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 Public Administrative Proceedings Pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds³ that:

SUMMARY

1. These proceedings arise out of Thompson’s failure to exercise due professional care, maintain professional skepticism, obtain sufficient appropriate audit evidence, and prepare audit documentation of sufficient detail regarding the work performed on the audit of the 2017 fiscal year financial statements of Santa Fe Gold Corporation (“Santa Fe” or “the company”) (the “2017 audit”). Thompson – who served as the engagement partner – had overall responsibility for the 2017 audit, including supervision of the engagement team members and compliance with Public Company Accounting Oversight Board (“PCAOB”) standards. Thompson caused the issuance of the audit report, signed by Thompson on behalf of the audit firm, containing an unqualified opinion that Santa Fe’s financial statements were presented fairly in all material respects in conformity with accounting principles generally accepted in the United States of America (“GAAP”) and that the audit was conducted in accordance with PCAOB standards. The audit report, dated July 3, 2018, was included in Santa Fe’s annual report on Form 10-K filed on July 5, 2018.⁴

2. During Santa Fe’s 2017 fiscal year, its former chief executive officer (“CEO”), Thomas H. Laws (“Laws”), misappropriated nearly \$1 million from the company.⁵ Thompson

³ 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.

⁴ Santa Fe’s 2017 fiscal year ended on June 30, 2017. Santa Fe was delinquent with respect to the filing of its 2017 Form 10-K.

⁵ On November 15, 2018, the Commission filed a civil action against Laws alleging violations of, among other provisions, the antifraud provisions of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and obtained a permanent injunction and other relief against him. *SEC v. Thomas H. Laws, et al.*, C.A. No. 18-cv-01063-JB-SCY (D.N.M.)

encountered numerous red flags during the 2017 audit concerning Laws' misconduct indicating that additional audit steps were required, including transfers of material amounts of Santa Fe funds to Laws' personal bank account. Yet Thompson failed to, among other things, obtain sufficient appropriate audit evidence to adequately assess the evidence and these transactions.

RESPONDENT

3. James L. Thompson, CPA, is a resident of Houston, Texas and a former partner of a PCAOB registered audit firm that specializes in auditing small public companies ("the firm"). Thompson has been licensed as a CPA in Texas since 2012. Thompson served as the engagement partner for the 2017 audit.

OTHER RELEVANT PARTY

4. Santa Fe Gold Corporation, a Delaware corporation with its principal place of business in Albuquerque, New Mexico, is a small mining company. It currently has a class of securities registered under Section 12(g) of the Exchange Act. At the time of the audit, its common stock was traded on the OTC Marketplace operated by OTC Markets Group, Inc. or "OTC Pink Sheets," under the ticker symbol "SFEG," and was required to file periodic reports with the Commission pursuant to Section 13 of the Exchange Act and related rules thereunder. The company filed Chapter 11 Bankruptcy in August 2015 and exited bankruptcy in June 2016.

FACTS

The Underlying Fraud at Santa Fe and Resulting Financial Misstatements

5. From approximately August 2016 to February 2018, Santa Fe's Chief Financial Officer ("CFO") transferred approximately \$1.1 million of Santa Fe funds to a personal bank account of Santa Fe's CEO Laws. In April 2017, Santa Fe transferred \$500,000 to Laws based upon the understanding that he would place the funds in an attorney's escrow account as a down payment for the company's \$3 million purchase of a silver mine. Santa Fe transferred additional funds to Laws purportedly for other corporate purposes, including the purchase of mining equipment and for services such as drilling. Instead of placing the funds in escrow or using the funds for corporate purposes, Laws misappropriated approximately \$1 million.

6. Due to Laws' misappropriation, the financial statements included in Santa Fe's Form 10-K for the year ended June 30, 2017, filed on July 5, 2018, were materially false. The engagement team audited those financial statements, represented that the audit was conducted in accordance with PCAOB standards, and concluded in an audit report authorized by Thompson and issued on July 3, 2018, that the 2017 financial statements "present fairly, in all material respects,

the financial position of the Company ... and the results of their operations” in accordance with GAAP.⁶

Thompson Knew the 2017 Audit of Santa Fe Involved Substantial Control Risks

7. Thompson participated in the planning stage of the 2017 audit. At that time, the engagement team determined there were material weaknesses in internal control over financial reporting at Santa Fe due to a lack of process and procedures and inadequate segregation of duties. The firm also documented a “significant deficiency” in internal control over financial reporting due to the absence of *any* policy regarding related party transactions. As a result, the firm determined at the outset of the 2017 audit that it could “not rely on the internal control of the company during the audit” and set the control risk as “high.” Thompson, as the engagement partner, knew of this risk control designation.

Audit Failures Concerning the Purported \$500,000 Down Payment for the Purchase of the Alhambra Silver Mine

8. Santa Fe’s June 30, 2017 balance sheet provided to the engagement team included a \$500,000 asset classified as an “escrow deposit.” That amount was material to Santa Fe, constituting almost half of its assets as of June 30, 2017. The amount exceeded the \$300,000 materiality threshold for the financial statements as a whole, as determined by the engagement team for the 2017 audit, which warranted heightened scrutiny for the transaction.

9. Santa Fe told the engagement team that this balance sheet item related to the \$3 million purchase of a silver mine located near Silver City, New Mexico (the “Alhambra mine”). Specifically, Santa Fe told the engagement team that the company wired \$500,000 to Laws’ personal bank account in April 2017 (a related party transaction that required heightened scrutiny), and that Laws subsequently wired that amount to an attorney in Silver City representing the seller of the Alhambra mine. Further, Santa Fe told the engagement team that the funds represented a down payment to be applied to the total purchase price of the mine, and were being held in escrow by the seller’s attorney. Thompson, as engagement partner, was aware of Santa Fe’s description of the transaction. In reality, although the agreement to purchase the Alhambra mine was real, there was no escrow associated with the transaction. Laws simply misappropriated \$500,000 from Santa Fe.

10. Thompson knew of red flags with respect to the \$500,000 asset classified as an “escrow deposit” on Santa Fe’s June 30, 2017 balance sheet, including that Santa Fe represented that the funds had been transferred to Laws’ personal bank account prior to being placed in escrow, and that the contract to purchase the Alhambra mine, which was provided to the engagement team, did not contain any reference to a \$500,000 down payment to be placed in escrow.

⁶ On October 1, 2018, Santa Fe filed a Form 8-K stating that the company’s previously filed financial statements could no longer be relied upon.

11. Thompson instructed the engagement team to confirm that the funds were in fact held in escrow by the Alhambra mine seller's attorney. But when the engagement team asked Santa Fe for contact information for the attorney holding the escrowed funds, Laws claimed the attorney ("Attorney A") had died after the escrow was established, and that the funds were now held by another attorney in Silver City ("Attorney B") who was serving as a court-appointed "special master" for Attorney A's escrow account. The engagement team emailed Attorney B seeking verification, but Attorney B responded by email stating, "I am not involved in the matter."

12. Despite these unusual circumstances and the significant red flag raised by Attorney B's response, the engagement team did not obtain sufficient appropriate audit evidence to determine whether the related party transaction had been properly accounted for and disclosed. There were several simple steps that Thompson could have caused the engagement team to take to obtain evidence supporting these transactions, but did not. For example, had the engagement team followed-up with Attorney B, they would have learned that: (1) Attorney B, consistent with his email to the engagement team, had no knowledge of the purported escrow account, and was not acting as a "special master" with respect to Attorney A's affairs; and (2) Attorney A had died in 2015 (Attorney B knew this), before the purported existence of the escrow account. In addition, a simple Internet search would have shown that Attorney A died in 2015, before Laws purportedly wired the funds to Attorney A. Moreover, Thompson never sought a third-party bank confirmation, which would have demonstrated that the funds were never wired to Attorney A or held by Attorney B. And Thompson never sought to contact the seller of the Alhambra mine, who would have told Thompson or the engagement team that the purported escrow account did not exist.

13. On or around June 19, 2018, Santa Fe claimed that Attorney B had returned the \$500,000 down payment, and provided a copy of a statement from Laws' personal bank account to the engagement team. The bank statement, which was heavily redacted and incomplete, purportedly showed a "pending" deposit into Laws' personal bank account as of June 14, 2018.

14. The bank statement, a forgery created by Laws, contained unusual discrepancies and inconsistencies. For example, the deposit was listed as "pending" in one portion of the bank statement, but as a "posted" transaction (*i.e.*, available for immediate withdrawal) in another portion. A junior member of the engagement team reviewed the bank statement, but Thompson never saw those facial inconsistencies because he never reviewed it, even though it was a material, related party transaction accompanied by significant red flags. Thompson also never sought a third-party confirmation from Laws' bank.

15. On July 3, 2018, over two weeks after the \$500,000 was supposedly deposited in Laws' account, Thompson asked the engagement team if the deposit was still "pending," or whether it had been transferred from Laws' personal account to Santa Fe or to the seller of the Alhambra mine. In response, the engagement team told Thompson that Santa Fe's CFO represented that Laws' bank had placed "some sort of hold" on the funds.

16. Shortly before Thompson authorized the firm to issue an unqualified audit report for the period ended June 30, 2017, the engagement team told Thompson that it had addressed the issue regarding the escrow of Santa Fe's funds. Despite the significant red flags of which Thompson was aware surrounding the \$500,000 that was allegedly in escrow, Thompson failed to inquire of the engagement team as to how the issue purportedly had been resolved. Moreover, the audit workpaper concerning the \$500,000 escrow deposit, which Thompson reviewed and signed, neither included any reference as to how the engagement team resolved the issue, nor documented whether the engagement team had communicated with the Alhambra mine seller's attorney(s).

Audit Failures Concerning Additional Advances to Laws

17. During the course of the audit, Thompson discovered that Laws was purportedly conducting additional company business, including purchases of equipment and procurement of various services, through his personal bank account. Santa Fe did not affirmatively disclose these related party transactions; the engagement team identified the transactions when auditing Santa Fe's general ledger. For the fiscal year ended June 30, 2017, Santa Fe advanced approximately \$400,000 to Laws for this purpose. These funds advanced to Laws exceeded the \$300,000 materiality threshold for the fiscal year 2017 financial statements as determined by the engagement team, which again warranted heightened scrutiny.

18. The engagement team requested from Santa Fe Laws' bank statements and the underlying invoices supporting the transactions. The engagement team also requested copies of the checks Laws had written to the vendors. In response to these requests, Laws provided various invoices and incomplete, heavily redacted bank statements. These invoices and bank statements included obvious discrepancies and inconsistencies. For example, one bank statement showed individual debits that vastly exceeded the total debits for the month. Further, several of the invoices provided were handwritten and missing common items such as sales tax. Thompson, however, never reviewed these documents, even though these were material, related-party transactions that were not previously disclosed to the firm. Moreover, although initially requested, Laws never provided the engagement team with cancelled checks. As such, the engagement team never verified who was ultimately paid from the Santa Fe funds advanced to Laws' personal account.

19. There were several other simple steps that Thompson could have caused the engagement team to take to obtain evidence supporting these transactions, but did not. For example, the engagement team did not conduct any physical or remote inspection of the equipment supposedly purchased by Laws for Santa Fe, and did not obtain any written confirmations from third parties, such as from vendors or Laws' bank.

Thompson Failed to Comply with PCAOB Auditing Standards During the Audit of Santa Fe's 2017 Fiscal Year Financial Statements

20. PCAOB standards require an auditor to exercise due care with professional skepticism. (AS 1015.07.) "Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence." (*Id.*)

21. PCAOB standards also require that an auditor obtain “sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.” (AS 1105.04.) “As the risk [of material misstatement] increases, the amount of evidence that the auditor should obtain also increases.” (AS 1105.05.) Moreover, “[t]o be appropriate, audit evidence must be both relevant and reliable” (AS 1105.06.)

22. PCAOB standards require the auditor to design and perform audit procedures “in a manner that addresses the risks of material misstatement associated with related parties and relationships and transactions with related parties.” (AS 2410.11.) The auditor should also “look to the requirements in paragraphs .66-.67A of AS 2401, *Consideration of Fraud in a Financial Statement Audit*, for related party transactions that are also significant unusual transactions.” (*Id.*)

23. PCAOB standards provide that the auditor should design and perform procedures “to obtain an understanding of the business purpose (or the lack thereof) of each significant unusual transaction that the auditor has identified.” (AS 2401.66A.) The auditor’s procedures should include evaluating “whether the business purpose (or the lack thereof) indicates that the significant unusual transaction may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets.” (AS 2401.67.)

24. PCAOB standards provide that in identifying and assessing risks of material misstatement, the auditor should emphasize to all engagement team members that if “information or other conditions indicate that a material misstatement due to fraud might have occurred, the need to probe the issues, acquire additional evidence as necessary, and consult with other team members and, if appropriate, others in the firm including specialists.” (AS 2110.53.)

25. PCAOB standards do not permit an auditor to rely on less than persuasive evidence because he or she believes management is honest. (AS 1015.09.) “Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion” (AS 1105.17.) Moreover, management representations “are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.” (AS 2805.02.)

26. PCAOB standards provide that engagement team members performing supervisory activities, like Thompson, should review the work of “engagement team members to evaluate whether (1) The work was performed and documented; (2) The objectives of the procedures were achieved; and (3) The results of the work support the conclusions reached.” (AS 1201.05(c).) The “extent of supervision” should take into account “[t]he risks of material misstatement” and “[t]he knowledge, skill and ability of each engagement team member.” (AS 1201.06(c)-(d).)

27. Thompson failed to comply with these standards. First, Thompson failed to exercise due professional care, maintain professional skepticism, and obtain sufficient appropriate audit evidence to evaluate management’s explanations or representations concerning the purported \$500,000 held in escrow for the purchase of the Alhambra mine. Numerous red flags existed such that the related party transaction should have been assessed as a significant unusual transaction,

including transfers to the personal bank account of the CEO and the contract to purchase the mine that did not contain any reference to a \$500,000 down payment to be placed in escrow. Moreover, Thompson did not perform or direct the engagement team to perform any number of simple steps that would likely have exposed the fact that the funds were not in escrow. For example, despite its importance, Thompson also did not review Laws' personal bank record purporting to show that the company's funds had been returned to Laws, relying instead on the representations of a junior member of the engagement team. Finally, instead of adequately evaluating the work of the engagement team, Thompson accepted that the escrow issue had been "resolved" without seeking an explanation or support as to how it was resolved.

28. Second, Thompson failed to exercise due professional care, maintain professional skepticism, and to obtain sufficient appropriate audit evidence to evaluate management's explanations or representations with respect to the additional funds advanced to Laws. Thompson knew that Laws was conducting a material amount of purported Santa Fe business through his personal bank account. Instead of appropriately verifying Santa Fe management's representations about how Laws used these funds by, for example, collecting additional evidence such as check copies or written confirmations, or conducting a physical or remote inspection of the items purportedly purchased, Thompson relied upon the engagement team's review of Laws' incomplete, heavily redacted bank statements and invoices with obvious discrepancies.

29. Further, Thompson failed to prepare audit documentation of sufficient detail regarding the 2017 audit. PCAOB standards provide that "[a]udit documentation should be prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached. Also, the documentation should be appropriately organized to provide a clear link to the significant findings or issues." (AS 1215.04.) Moreover, an auditor must identify all significant issues in an engagement completion document ("ECD"), and be specific enough in the ECD for an Engagement Quality Review ("EQR") partner to understand the issues. (AS 1215.13.) The ECD is specifically intended, in part, to aid the EQR partner in fulfilling his or her responsibilities.

30. The funds transferred by Santa Fe to Laws accounted for over half of Santa Fe's total assets and involved related-party transactions, some of which were not disclosed by Santa Fe to the engagement team. As discussed above, numerous red flags existed in connection with these transfers. Nonetheless, Thompson failed to include documentation in the firm's workpapers, including in the ECD, regarding the significant issues outlined above surrounding the purported escrow of \$500,000 and the other Santa Fe funds advanced to Laws.

31. PCAOB standards also require that an auditor communicate certain information to the audit committee, including any "significant unusual transactions" (*i.e.*, transactions that "appear to be unusual due to their timing, size, or nature"). (AS 1301.12.) An auditor must also communicate to the audit committee "transactions with related parties that were previously undisclosed to the auditor." (AS 2410.19.) The firm's communications to Santa Fe's audit committee, as reviewed and approved by Thompson, including the "AS 1301" Letter to the audit

committee (named after the relevant PCAOB standard), contained no reference to the issues surrounding the purported \$500,000 escrow or to the other funds advanced to Laws.

FINDINGS

32. Based on the foregoing, the Commission finds that Thompson engaged in improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.⁷

IV.

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

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

A. Thompson is denied the privilege of appearing or practicing before the Commission as accountant.

B. After two years from the date of this order, Thompson 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 Thompson'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

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.

⁷ Pursuant to Section 4C(b) and Rule 102(e)(1)(iv), "improper professional conduct" includes two types of negligent conduct: (1) a single instance of highly unreasonable conduct that results in a violation of professional standards in circumstances where heightened scrutiny is warranted; or (2) repeated instances of unreasonable conduct, each resulting in violations of professional standards, that indicate a lack of competence.

Such an application must satisfy the Commission that:

(a) Thompson, 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) Thompson, 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 Thompson's or the firm's quality control system that would indicate that Thompson will not receive appropriate supervision;

(c) Thompson 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) Thompson 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.

C. The Commission will consider an application by Thompson 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 Thompson'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.

By the Commission.

Vanessa A. Countryman
Secretary