ACCOUNTING & AUDIT

Marcum's Ex-Quality Control Overseer Was Fined By the SEC for Bad Quality Control Oversight

Marcum audit partner Alfonse Gregory Giugliano was slapped with a $75,000 fine for failing to fix problems in the firm's QC system.

Jason Bramwell • Sep. 14, 2023

The Securities and Exchange Commission (SEC) last week fined a Marcum partner who used to be in charge of the top 15 firm's quality control system $75,000 for failing to sufficiently address and fix numerous problems in the quality control system he oversaw.

As a result, Marcum recently had to pay financial penalties to the SEC and the Public Company Accounting Oversight Board (PCAOB) because of quality control failures and violations of auditing standards during its audits of special-purpose acquisition companies (SPACs).

Alfonse Gregory Giugliano

Without admitting or denying the SEC's findings, Alfonse Gregory Giugliano, CPA, an assurance partner at Marcum who served as the firm's national assurance services leader from 2001 until September 2022, agreed to be censured, pay the $75,000 fine, and to comply with certain undertakings for a period of three years, including having no leadership, management, oversight, or supervisory position at any registered public accounting firm, the SEC said.

According to the SEC order, Giugliano was responsible for quality controls across Marcum's assurance practice, overseeing all related policies, procedures, and monitoring, including those relevant to compliance with PCAOB quality control and audit standards. He also directly or indirectly supervised all personnel working within Marcum's quality control functions.

Growth in Marcum's public company audit practice has surged in recent years, primarily due to the SPAC-craze. Of the more than 860 SPACs that completed initial public offerings in 2020 and 2021, Marcum audited more than 400 of these transactions. The SEC also noted that in 2019, Marcum was the auditor for only 185 public companies, but by 2022, that number jumped to 575—the majority of them being SPACs.

In the order, the SEC said:

> The strain of this exponential growth in Marcum's public company practice exposed substantial, widespread, and pre-existing deficiencies in the firm's underlying quality control policies, procedures, and monitoring that Giugliano oversaw. Giugliano was aware that, in the period immediately preceding the SPAC market's explosion, Marcum's annual inspections by the PCAOB had revealed an increasing number of deficiencies. Giugliano was also aware that Marcum was subject to consecutive PCAOB enforcement orders—in 2019 and 2020—related to quality control failures concerning independence and client acceptance; the 2019 order also sanctioned Giugliano based on the PCAOB's findings that Marcum violated independence standards.

In September 2019, the PCAOB fined Marcum $450,000, its Chinese affiliate Marcum Bernstein & Pinchuk $50,000, and Giugliano $25,000 for auditor independence violations during the firm's annual microcap conference where Marcum publicly advocated its audit clients as investment opportunities. Giugliano was fined by the PCAOB because he "failed to recognize the independence implications of touting a group of companies that included audit clients, in part because he failed to conduct any substantial independence deliberations concerning the conference."

Then in September 2020, the PCAOB fined Marcum $250,000 and barred the firm from auditing companies with significant operations in China for three years for failing to perform appropriate procedures regarding significant unusual transactions engaged in by a company that moved its operations to mainland China.

The SEC said last week that Giugliano was also aware that Marcum's own internal inspections—starting at least in 2018 and continuing through 2021—also revealed numerous deficiencies:

> Over several years, these inspections identified numerous deficiencies in audit documentation. The 2020 internal inspection also concluded that such deficiencies were caused by insufficient time spent on engagements and audit documentation. Despite inspection findings, Giugliano did not sufficiently address and timely

> remediate deficiencies in the firm's policies, procedures, and monitoring.

In his role as national assurance services leader, Giugliano was responsible for Marcum's policies and procedures related to client acceptance, including having the authority to revise such policies and procedures. "Marcum's client acceptance policies, procedures, and monitoring did not provide reasonable assurance that the firm was undertaking only those engagements that it could reasonably expect to be completed with professional competence," the SEC said.

For example, as early as October 2020, Giugliano was aware of widespread failures in the timely completion, assembly, and retention of audit documentation. The SEC said Giugliano received weekly emails reflecting that the number of workpaper binders that were not finalized and assembled for retention within the PCAOB-required 45-day period increased from 23 to 687 between October 2020 and June 2021.

In addition, Giugliano was repeatedly notified of capacity constraints throughout the SPAC audit practice. At the beginning of February 2021, the SEC said a national office partner at Marcum alerted Giugliano that managers in the SPAC practice were overworked and lacking resources, despite Marcum accepting a record 114 new SPAC clients. That same pattern of notifications and high client acceptances continued into March 2021, as the firm accepted a record 159 new SPAC clients.

These problems led to Marcum being fined $10 million by the SEC and $3 million by the PCAOB last June for quality control and audit standard failures. And as part of its settlement with the PCAOB, Marcum will have to create a new role and hire an individual to serve as head of the firm's quality control system and to create a committee responsible for the oversight function for the audit practice.

Accounting & Audit • Auditing • News • Article • Accounting Firms • Marcum • quality control • SEC • SEC enforcement • Securities and Exchange Commission