

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101181 / September 25, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22197

In the Matter of

BSC, LP

Respondent.

**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**

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 BSC, LP (“BSC” 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 it 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. These proceedings arise out of violations of the beneficial ownership reporting requirements of the federal securities laws. Section 13(d) of the Exchange Act and Rule 13d-1 thereunder together require that any person who directly or indirectly acquires beneficial ownership of more than five percent of a voting class of any equity security registered under Section 12 of the Exchange Act file a statement with the Commission. During the relevant time, beneficial owners could comply with this requirement by filing a Schedule 13D with the Commission within 10 days after acquiring the requisite amount of beneficial ownership. Whenever a material change occurred to the facts set forth in any Schedule 13D so filed, the disclosure statement was required to have been truthfully amended to reflect that material change and filed promptly.

2. In May 2020, BSC, then doing business as Brown Stone Capital, LP, along with two related parties, reported on a Schedule 13D a nearly six percent beneficial ownership position in the common stock of PharmaCyte Biotech, Inc. ("PharmaCyte"). Two months later, in July 2020, BSC and the related parties filed an amendment to that Schedule 13D. Both filings were untimely. As a result, BSC violated and caused the related parties to violate Section 13(d) and related rules.

Respondent and Related Parties

3. BSC is a California limited partnership based in Beverly Hills, California whose principal business is making investments. BSC has a general partner ("General Partner"), and the General Partner is the President of an entity related to BSC ("Related Entity").

Legal Framework

4. Section 13(d)(1) of the Exchange Act and Rule 13d-1(a) thereunder together require any person who has directly or indirectly acquired beneficial ownership of more than five percent of any voting class of equity security registered under Section 12 of the Exchange Act to file a statement with the Commission disclosing certain information specified in a Schedule 13D. During the relevant time, individuals or entities could comply with this requirement by filing a Schedule 13D with the Commission within 10 days after they acquired the requisite amount of beneficial ownership.² Section 13(d) is a key provision that allows shareholders and potential investors to evaluate changes in substantial shareholdings.³

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.

² On October 10, 2023, the Commission adopted amendments to the rules governing beneficial ownership reporting under Sections 13(d) and 13(g) to update and shorten certain filing deadlines (the "2023 Amendments").

5. During the time period relevant to this matter, Section 13(d)(2) of the Exchange Act and Rule 13d-2(a) thereunder required a person who had filed a Schedule 13D to file an amendment “promptly”⁴ if any material change occurred in the facts set forth in that filing, including but not limited to, any material increase or decrease in the percentage of the class beneficially owned. An acquisition or disposition of beneficial ownership in an amount equal to one percent or more of a class of equity securities beneficially owned is deemed material by Rule 13d-2(a).

6. There is no state of mind requirement for violations of Section 13(d) and the rules thereunder.⁵ The failure to timely file a required report, even if inadvertent, constitutes a violation.⁶

Facts

7. Respondent filed a Schedule 13D on May 6, 2020, disclosing that it beneficially owned more than 95 million shares of common stock of PharmaCyte, which represented 5.8% of the outstanding shares. The Schedule 13D represented that approximately two-thirds of the position was owned by the Related Entity, and that the General Partner had voting and dispositive power over the shares held by both BSC and the Related Entity. The Related Entity and the General Partner also signed the Schedule 13D.

8. The Schedule 13D represented that the date of event that required the filing (“Event Date”) was November 27, 2019. Respondent should have filed a Schedule 13D within 10 days of

Modernization of Beneficial Ownership Reporting, SEC Release No. 34-98704 (Oct. 10, 2023), 88 Fed. Reg. 76896 (Nov. 7, 2023). Among other provisions, the 2023 Amendments shortened the deadline for filing the initial statement on Schedule 13D from 10 days to five business days, which became effective on February 5, 2024. *Id.* at 76897, 76906.

³ See generally *GAF Corp. v. Milstein*, 453 F.2d 709, 717 (2d Cir. 1971) *cert. denied*, 406 U.S. 910 (1972); see also *SEC v. Savoy Indus., Inc.*, 587 F.2d 1149, 1167 (D.C. Cir. 1978) *cert. denied*, 440 U.S. 913 (1979), citing, S. Rep. No. 550, 90th Cong., 1st Sess. 1 (1967) and H.R. Rep. No. 1711, 90th Cong., 2d Sess. 2 (1968) (“The purpose of section 13(d) is to require disclosure of information by persons who have acquired a substantial interest, or increased their interest in the equity securities of a company by a substantial amount, within a relatively short period of time.”).

⁴ Although the term “promptly” was not defined under the rules in effect at the time of the violation, any delay in filing beyond the date the filing reasonably could have been made may not have been prompt. *Amendments to Beneficial Ownership Reporting Requirements*, SEC Rel. No. 34-39538, 1998 WL 7449, at *3 n.14 (Jan. 12, 1998).

⁵ See, e.g., *Savoy Indus.*, 587 F.2d at 1167 (“Indeed, the plain language of section 13(d)(1) gives no hint that intentional conduct need be found, but rather, appears to place a simple and affirmative duty of reporting on certain persons.”).

⁶ Cf. *Oppenheimer & Co., Inc.*, 47 SEC 286, 1980 WL 26901, at *1–2 (May 19, 1980) (Commission opinion) (“We have previously held that the failure to make a required report, even though inadvertent, constitutes a willful violation”); *Herbert Moskowitz*, 77 SEC 446, 2002 WL 434524, at *7 (Mar. 21, 2002) (Commission opinion) (“evidence of both motive for non-disclosure and actual market impact . . . is irrelevant” to whether violations of Section 13(d) of the Exchange Act and Rules 13d-1 and 13d-2 thereunder occurred).

the Event Date. Due to a mistake, Respondent did not understand that its combined ownership with a Related Entity exceeded five percent. When the error was discovered, the Respondent filed a Schedule 13D on May 6, 2020. As a result, this Schedule 13D was untimely.

9. Following the filing of its Schedule 13D, Respondent and the Related Entity began selling PharmaCyte stock. On July 29, 2020, Respondent filed an amendment to its Schedule 13D, reporting that it no longer had beneficial ownership of any PharmaCyte common stock. The filing disclosed an Event Date of June 19, 2020. Respondent should have filed this amendment promptly after the Event Date. Thus, the amendment was untimely.

Violations

10. BSC acquired the PharmaCyte shares that caused its beneficial ownership, together with that of the Related Entity, to exceed five percent of the outstanding shares. As noted, the General Partner had beneficial ownership of the the shares held by both BSC and the Related Entity. Thus, BSC caused these parties to sign the Schedule 13D and the amendment.

11. As a result of the conduct described above, Respondent violated, and caused two related parties to violate, Sections 13(d)(1) and 13(d)(2) of the Exchange Act and Rules 13d-1 and 13d-2 thereunder.

Cooperation

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

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent BSC cease and desist from committing or causing any violations and any future violations of Sections 13(d)(1) and 13(d)(2) of the Exchange Act and Rules 13d-1 and 13d-2 thereunder.

B. Respondent shall pay civil penalties of \$75,000 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 is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment shall be made in the following installments: \$15,000 within 14 days after the entry of this Order; \$15,000 within 90 days after the entry of this Order; \$15,000 within 180 days after the entry of this Order; \$15,000 within 270 days after the entry of this Order; and \$15,000 within 360 days after the entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth

herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

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 BSC 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 D. Mark Cave, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

C. 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, it shall not argue that it is entitled to, nor shall it 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 it 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.

By the Commission.

Vanessa A. Countryman
Secretary