UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, vs. **REBECCA LYNN HIGGINS,** Defendant.	Civil Action No. 3:11-cv-763

COMPLAINT

The United States Securities and Exchange Commission ("Commission") files this Complaint against Defendant Rebecca Lynn Higgins ("Higgins") and would respectfully show the Court as follows:

SUMMARY

1. Rebecca Lynn Higgins, a marketing vice president for Zale Corporation's largest division, caused Zale to record certain television advertising costs as prepaid advertising when, in fact, those costs should have been expensed in the periods they were incurred. As a result, Zale filed misstated financial reports for the fiscal years ended July 31, 2004 through 2008, and for the fiscal quarters ended October 31, 2008, January 31, 2009, and April 30, 2009. Higgins aided and abetted Zale's violations of Sections 13(a), 13(B)(2)(A) and 13(B)(2)(B) of the Securities Exchange Act of 1934 (the "Exchange Act"), and Rules 12b-20, 13a-1 and 13a-13 thereunder. The Commission brings this action against Higgins seeking permanent injunctive relief and civil monetary penalties.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to Section 27 of the Exchange Act. [15 U.S.C. § 78aa]. Defendant has, directly or indirectly, made use of the means or instruments of transportation and communication, and the means or instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein. Venue is proper because Higgins lives in Dallas, Texas, and certain of the acts, practices, transactions and courses of business alleged herein occurred within the Northern District of Texas.

DEFENDANT

3. Becky Higgins, age 58, is a resident of Dallas, Texas. Zale hired Higgins as an administrative assistant in March 1971. She progressed through various marketing-related positions, serving as a vice president of marketing from May 2006 until she was terminated on October 13, 2009.

RELATED ENTITIES

4. Zale Corporation, a jewelry retailer, is a Delaware corporation headquartered in Irving, Texas. Zale's common stock is registered with the Commission under Section 12(b) of the Exchange Act and trades on the New York Stock Exchange under the symbol "ZLC."

FACTS

Zale's television media commitments

5. TV networks solicit advertisers to purchase airtime before each new television season, a timeframe that coincided with Zale's fiscal year (August – July). Zale purchased $30 to $40 million of television media annually, focused around three advertising seasons: Thanksgiving to Christmas, which accounted for approximately 75% of Zale's advertising

expenditures; Valentine's Day; and Mother's Day. Since 2005, Zale purchased television media through The Richards Group ("TRG"), the Company's primary advertising agency. Higgins managed Zale's relationship with TRG. During the summer and early fall, Higgins and TRG would review the prior year's advertising campaigns and determine how much of the current year television media budget to spend in each advertising season.

Higgins exploited material weaknesses in Zale's internal controls

6. Zale's accounting policy required television media to be expensed when the advertisements aired. Relying on information provided by Higgins (or her staff at her direction), Zale followed a three-step process.

7. First, Zale initially expensed in the current month all advertising invoices approved by Higgins, and her supervisors depending upon the amount of the invoice, for processing. Second, as a part of its month-end closing process, Zale's accounting staff reconciled the dollar amount of invoices per the general ledger to the dollar amount of invoices in an electronic database maintained by Zale's marketing department under Higgins's direction (the "Job Tracking database"). Finally, Zale's accounting staff compared the dollar amount of invoices processed to the dollar amount of advertising expenses listed per the marketing department's monthly forecast report, which was prepared and sent to Zale's accounting staff under Higgins's direction. To the extent the dollar amount of invoices processed exceeded the forecasted expense provided by Higgins, Zale's accounting staff increased prepaid advertising, and vice versa. Over time, the balance of prepaid advertising grew to approximately $24 million.

8. Zale's accounting staff relied on Higgins to determine how much television media to expense, as well as the proper periods in which to expense them. As invoices were processed, Higgins's staff entered the vendor name and invoice date, number, and amount. Higgins also

directed her staff to input the "Ad Run Date," which was often a generic timeframe, such as "Aug-July," rather than the date the advertising actually ran.

9. Critically, Higgins periodically directed her staff to enter negative amounts into the Job Tracking database, improperly re-classifying 100% of selected invoices to the subsequent fiscal year. As a result, the dollar amount of deferred invoices at year-end approximated the balance of prepaid advertising per the general ledger. Higgins's invoice deferrals increased the amount of prepaid advertising balance, creating the appearance that future advertising had already been paid for.

Higgins withheld advertising invoices from accounting

10. Higgins was supposed to timely forward invoices approved for payment to Zale's accounting department. During the first quarters of FY 2006, 2007, and 2008, however, Higgins delayed processing invoices related to prior year advertising until after year-end, and then described these invoices as relating to the subsequent year. Higgins knew or should have known that her descriptions were inaccurate based on the advertising campaigns involved (e.g., Mother's Day campaign) and the information TRG reported in its annual post-buy analysis of Zale's advertising campaigns. Higgins's actions caused \$2.1 million, \$1.6 million, and \$0.7 million of invoices relating to previously aired television advertising to be expensed in FY 2006, 2007 and 2008, respectively, rather than in the years they actually were incurred.

11. Similarly, near the end of fiscal 2009, Higgins instructed her employees to withhold approximately \$257,000 worth of invoices relating to signs displayed in retail stores to avoid exceeding her department's budget. After Zale's fiscal year 2009 ended, Higgins approved payment of the overdue invoices and submitted them to Zale's accounting staff for processing, incorrectly labeling them as FY 2010 expenses.

Higgins signed inaccurate sub-certifications

12. From fiscal year-end 2006 through the first quarter of fiscal year 2009, Higgins (like other similarly placed Zale managers) certified to Zale's CEO and CFO that, among other things: her department's financial information had been fairly presented; she was familiar with the internal controls and procedures applicable to her department's financial reporting; and there were no undisclosed deficiencies or breaches of these controls and procedures. As described previously, Higgins knew or should have known that Zale's prepaid advertising balance was overstated and that Zale recorded certain advertising expenses in the incorrect periods, rendering her certifications inaccurate.

Zale files misstated financial statements

13. Zale's accounting department relied on Higgins's certifications in preparing Zale's financial statements and public filings. As a result, Zale included these material misstatements in its public filings.

14. On October 29, 2009, Zale filed its annual report for the fiscal year ended July 31, 2009, restating its previously issued financial statements to correct various errors, the largest of which relates to prepaid advertising. The following chart summarizes Zale's restated net income (loss) (dollars in millions):

Period	Advertising Error, Net of Tax	Net Income (Loss), As Restated	% Misstated Due to Advertising Error
Nine months ended 4/30/09	$ (9.8)	$ (99.7)	9.9%
Year ended 7/31/08	$ (1.3)	$ 0.6	209.4%
Year ended 7/31/07	$ (1.2)	$ 57.5	(2.1)%
Year ended 7/31/06	$ (4.5)	$ 48.1	(9.5)%
Year ended 7/31/05	$ (0.5)	$ 106.2	(0.5)%
Cumulative impact on year ended 7/31/04 and prior years	$ (11.9)	(Approximately 1.7% of 7/31/04 shareholders' equity)	

FIRST CLAIM

Aiding and Abetting Zale's Violations of Exchange Act <u>Section 13(a) and Rules 12b-20, 13a-1 and 13a-13</u>

15. Paragraphs 1 through 14 are realleged and incorporated by reference.

16. Based on the conduct alleged herein, Zale violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder.

17. Defendant, in the manner set forth above, knowingly or with recklessness provided substantial assistance to Zale's violations of these provisions, as an issuer of a security registered pursuant to Section 12 of the Exchange Act, in its failing to file with the Commission, in accordance with rules and regulations the Commission has prescribed, information and documents required by the Commission to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to Section 12 of the Exchange Act and annual reports and quarterly reports as the Commission has prescribed.

18. By reason of the foregoing, Defendant aided and abetted Zale's violations of, and unless restrained and enjoined, will aid and abet further violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

SECOND CLAIM

**[Aiding and Abetting Zale's Violations of Exchange Act Section 13(b)(2)(A)]
(Books and Records)**

19. Paragraphs 1 through 14 are realleged and incorporated by reference.

20. Section 13(b)(2)(A) of the Exchange Act requires public companies to make and keep books, records, and accounts that accurately and fairly reflect the transactions and dispositions of their assets.

21. As described above, Zale's books, records, and accounts did not properly reflect the amount of prepaid advertising. As a result, Zale violated Exchange Act Section 13(b)(2)(A). [15 U.S.C. § 78m(b)(2)(A)].

22. Defendant, in the manner set forth above, knowingly or with recklessness provided substantial assistance to Zale in connection with its failure to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected Zale's transactions and dispositions of its assets.

THIRD CLAIM

**[Aiding and Abetting Zale's Violations of Exchange Act Section 13(b)(2)(B)]
(Internal Controls)**

23. Paragraphs 1-14 are re-alleged and incorporated by reference.

24. Section 13(b)(2)(B) of the Exchange Act requires public companies 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.

25. 16. As described above, Zale failed to devise or maintain sufficient internal controls to ensure that the amount of prepaid advertising was properly recorded. As a result, Zale violated Exchange Act Section 13(b)(2)(B) [15 U.S.C. § 78m(b)(2)(B)].

26. Defendant, in the manner set forth above, knowingly or with recklessness provided substantial assistance to Zale in connection with its failure to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles.

27. By reason of the foregoing, Defendant aided and abetted Zale's violation of, and unless restrained and enjoined, will aid and abet further violations of Exchange Act Section 13(b)(2)(B) [15 U.S.C. §§ 78m (b)(2)(B)].

RELIEF REQUESTED

For these reasons, the Commission respectfully requests that the Court enter a judgment:

(a) permanently enjoining Higgins from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules12b-20, 13a-1 and 13a-13 thereunder; and

(b) ordering Defendant Rebecca Lynn Higgins to pay a civil penalty in the amount of $25,000 pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]; and

(c) granting such other relief as this Court may deem just or appropriate.

Dated: April 14, 2011

/s/Jennifer D. Brandt
Jennifer D. Brandt
Texas Bar No. 00796242
David L. Peavler
Texas Bar No. 00784738
James E. Etri
Texas Bar No. 24002061
Securities and Exchange Commission
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, Texas 76102-6882
Phone: (817) 978-6442 (jb)
Fax: (817) 978-4927
brandtj@sec.gov

ATTORNEYS FOR PLAINTIFF