

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 102141 / January 10, 2025

ADMINISTRATIVE PROCEEDING
File No. 3-22389

In the Matter of

**ACREAGE HOLDINGS,
INC.,**

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 Acreage Holdings, Inc. (“Acreage” 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:

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.

Summary

1. These proceedings arise out of Acreage’s failure to make and keep books, records, and accounts in the manner required by Section 13(b)(2)(A) of the Exchange Act. In late December 2019 and early January 2020, Acreage engaged in a round-trip transfer of cash with an affiliated but unconsolidated entity (“Entity A”) that temporarily inflated Acreage’s year-end 2019 cash balance on its internal accounting records.

2. Shortly before the close of Acreage’s fiscal year ended December 31, 2019 (“FY 2019”), Acreage caused Entity A to transfer approximately \$4.2 million from Entity A to Acreage’s bank account with the express understanding that Acreage would return all the money to Entity A in early January 2020, after the end of FY 2019. Acreage received cash in the amount of approximately \$4.2 million from Entity A on December 26, 2019, and Acreage returned that exact same amount of cash to Entity A on January 3, 2020.

3. Acreage subsequently created journal entries and other records that mischaracterized the round-trip transfer, first as a repayment of debt owed by Entity A and subsequently as a short-term loan from Entity A to Acreage. Both characterizations misrepresented the true nature of the transfers. After certain employees’ concerns about the round-trip nature of the transaction were escalated to a member of Acreage’s board of directors and the director began making inquiries, Acreage recorded an additional journal entry that effectively reversed the transaction from an accounting perspective, and the money that Acreage had received from Entity A was not included in Acreage’s publicly reported financial statements for FY 2019.

4. During the audit of Acreage’s FY 2019 financial statements, Acreage created and provided written documents to the accounting firm conducting the audit (“Audit Firm A”) that also misrepresented and omitted material facts about the round-trip cash transfer with Entity A.

5. As a result of these facts, Acreage violated Section 13(b)(2)(A) of the Exchange Act.

Respondent

6. Acreage is a company in the cannabis industry that is headquartered in New York, New York and incorporated in British Columbia, Canada. At the time of the events described herein, Acreage had a class of securities registered pursuant to Section 12(g) of the Exchange Act; its subordinate voting shares were listed on the Canadian Securities Exchange and quoted in the United States on the OTCQX; and Acreage was a reporting company pursuant to Section 13(a) of the Exchange Act. On December 9, 2024, Acreage announced the completion of a transaction through which Acreage was acquired by Canopy USA, LLC (“Canopy USA”), a subsidiary of Canopy Growth Corporation (“Canopy”), an issuer incorporated in Canada and headquartered in Ontario, Canada. Canopy conducts business in the U.S. through Canopy USA and its common stock is registered pursuant to Section 12(b) of the Exchange Act. Canopy’s common stock is

listed on The Nasdaq Global Select Market, and it is a reporting company pursuant to Section 13(a) of the Exchange Act.

Facts

A. Background

7. Acreage operates its cannabis business through subsidiaries in several states. In 2019 and 2020, Acreage also had relationships in certain states with entities that were not subsidiaries, including Entity A.

8. As a separate entity that was not owned by Acreage, Entity A's financial results were not consolidated with Acreage's financial results. Accordingly, cash and other assets held by Entity A were not included in Acreage's financial statements.

9. Acreage, through one of its subsidiaries, had contractual arrangements with Entity A that included a Management Consulting and Service Agreement ("Services Agreement"), pursuant to which Acreage provided certain services to Entity A in exchange for fees from Entity A, as well as a line of credit pursuant to which Acreage lent money to Entity A. The services that Acreage provided to Entity A included billing, day-to-day operational support, employee training, and "financial oversight, controls, planning, and access to capital."

10. Between approximately 2016 and 2019, Acreage generally did not require Entity A to make payments for the management fees owed pursuant to the Services Agreement and did not require Entity A to repay amounts owed pursuant to the line of credit. Instead, Acreage allowed those amounts to accrue over time.

11. In late 2019, as the end of FY 2019 approached, Acreage's senior management became increasingly concerned about the company's cash balance. On November 26, 2019, a senior officer of Acreage ("Officer A") emailed another senior officer ("Officer B") with the subject line "Cash Flow" and wrote: "Let's discuss tomorrow. All of our competitors are showing [cash flow] positive. Why are we so far off?" During this period, industry analysts were focused on the cash balances at companies in the cannabis industry, including Acreage.

12. As senior management considered potential ways to increase Acreage's cash balance, they explored the possibility of asking Entity A to pay some of the amounts it owed to Acreage. At that time, Entity A owed Acreage \$4.65 million in principal, and additional amounts for interest, on the line of credit. On December 5, 2019, Officer B received an email from an Acreage employee ("Employee A") whose role involved providing accounting services for Entity A. Employee A reported that it appeared likely that Entity A could afford to make a payment of \$1.5 million to Acreage. Employee A noted that while Entity A had more cash on hand, a substantial proportion of Entity A's cash was already earmarked for specific business needs.

B. The Round-Trip Cash Transfer at Year-End 2019

13. Later in December 2019, Acreage's senior management developed a different plan to temporarily increase the company's cash balance before the end of FY 2019. Rather than asking Entity A to pay down its debt under the line of credit, Acreage's senior management decided instead to have Entity A temporarily transfer virtually all of its cash (over \$4 million) to Acreage before the end of FY 2019, with an assurance that it would all be sent right back to Entity A in early January 2020.

14. On December 22, 2019, Officer B texted Employee A, stating as follows: "When you have a chance can you please call me and I can explain what we are doing [with Entity A]?" Officer B and Employee A spoke on the phone later that day. On the call, Officer B conveyed to Employee A that Entity A was going to help Acreage bolster its year-end cash balance by temporarily transferring approximately \$4.5 million to Acreage before December 31 and that Acreage would be returning the money shortly after December 31.

15. On December 23, 2019, Officer B sent a follow-up email to Employee A, stating as follows: "Today can you please transfer \$4.5m from [Entity A] to Acreage." Officer B stated in his email that the transfer would be "accounted for as short term financing," and that the money would be sent back to Entity A "on January 2" pursuant to a "capital call."

16. Employee A responded to Officer B by raising a number of issues with the request, including the fact that he did not have the ability to send wires from Entity A, and that "there is only \$4.3m through all of their bank accounts and outstanding payables currently account for \$150k." Officer B then indicated that others would handle arrangements for the transfer and wrote "\$4.3 m will be sent. Just note the accounting."

17. On or about December 24, 2019, Officer A and two additional senior officers of Acreage ("Officer C" and "Officer D") held a call with Entity A's CEO. During the call, Officer A directed Entity A's CEO to send all of Entity A's cash to Acreage, except for what was needed to cover Entity A's immediate short-term expenses. Officer A assured Entity A's CEO that Acreage would return the money to Entity A at the beginning of January 2020. Entity A's CEO initially objected to the request, but ultimately acquiesced. Entity A's CEO asked that Acreage put in writing the assurance that Acreage would return the money to Entity A at the beginning of January.

18. Acreage provided the assurance in writing. On December 24, 2019, Officer C emailed Entity A's CEO and included Officer A and Officer B on the message. Officer C wrote that "we have requested that you wire all available funds (not including those needed to cover outstanding liabilities) to the Acreage corporate account" and reiterated the assurance that "[t]he funds that will be wired into the Acreage account will be returned in whole on January 2nd."

19. In his December 24, 2019 email, Officer C stated that Acreage's request for the money was being made "in an effort to clarify our revenues and cash on-hand for potential investors." At around the same time, Officer C called Employee A and left a voicemail stating as

follows: “Just giving you a call to let you know [Entity A’s CEO is] going to be calling you. They’re gonna wire approximately \$4.5 million to the Acreage account just to show cash in our account, then we’re gonna put it back, but he needs to know what are [sic] outstanding as far as payables so we leave sufficient funds in there so no checks bounce.”

20. Entity A’s CEO initiated a wire transfer request later in the day on December 24, 2019, instructing Entity A’s bank to wire \$4,164,458.06 to Acreage’s bank account.

21. Following the initiation of Entity A’s wire transfer, an Entity A employee received an alert from Entity A’s bank about the transfer and wrote to Entity A’s CEO, asking “Do you know what this is for?” Entity A’s CEO responded as follows: “I received a request from Acreage this week to transfer funds from the [Entity A] account to their account and the funds will be transferred back on January 2nd. . . . Enough funds have been left in the payroll and operating account to cover the next pay period on Thursday the 2nd and for any outgoing payments, ~\$200k in total.”

22. The \$4,164,458.06 that was wired from Entity A’s bank account arrived in Acreage’s bank account on December 26, 2019 and remained there through the end of FY 2019. The addition of this money from Entity A temporarily increased Acreage’s existing cash balance as of December 31, 2019 by approximately 15%, from \$26.5 million to \$30.7 million.

23. Entity A’s cash transfer to Acreage was not a bona fide repayment of debt that Entity A owed Acreage, as Acreage and Entity A both understood from the outset that the money would be temporarily parked in Acreage’s bank account for just a few days at the end of December 2019 before Acreage returned that money to Entity A in early January 2020. For the same reason, Entity A’s cash transfer to Acreage did not constitute short-term financing provided to Acreage by Entity A.

24. On January 2, 2020, Entity A’s CEO followed up on the December 24, 2019 email thread with Acreage’s senior management and requested reconfirmation that, as agreed, the money would be “coming back . . . today or tomorrow.”

25. Pursuant to instructions and approval from Officer B and Officer C, an Acreage employee prepared a wire transfer request form on January 2, 2020 for the return of the funds to Entity A. On January 3, 2020, Acreage wired \$4,164,458.06—the exact same amount that Entity A had wired to Acreage just one week earlier in late December 2019—back to Entity A.

C. Inaccurate and Improper Journal Entries

26. After the funds had been returned to Entity A, Acreage’s accounting staff did not know how to record the transfers in the general ledger and did not receive appropriate guidance or accurate information from senior management. Contemporaneous emails show that the accounting staff was “struggling to find the appropriate accounting based on the [available] information” and asking if there was “any kind of support for this entry we can have to review so we can make sure the appropriate entries are made.”

27. Lacking a legitimate justification for the transfers and absent appropriate guidance or accurate information from senior management, Acreage accounting staff made a series of journal entries in an attempt to record the transfers on Acreage's books in some way. These journal entries were inaccurate. Although Officer B's December 23 email to Employee A initially characterized the transfer from Entity A as "short-term financing," that transfer was not in fact a short-term loan from Entity A to Acreage and Acreage's return of the money to Entity A was not the repayment of such a loan.

28. On January 3, 2020, Acreage accounting staff made a journal entry dated December 26, 2019 that recorded the receipt of the money from Entity A as a debit to Acreage's bank account, an asset account, and a credit to "Investments - Consolidated: Investment in [Entity A]," also an asset account. The effect of this journal entry was to decrease the amount that Entity A owed to Acreage under the line of credit, and to increase the amount of cash in Acreage's bank account balance, by the amount of the transfer. This entry was inaccurate because the transfer to Acreage was not a bona fide payment of a receivable due from Entity A to Acreage.

29. On January 7, 2020, Acreage accounting staff revised the January 3 journal entry recording the receipt of the money from Entity A, changing the account for the credit entry from the asset account "Investments - Consolidated: Investment in [Entity A]" to "Other Current Liabilities," a liability account. The effect of this journal entry was to increase Acreage's unspecified short-term indebtedness by the amount of the transfer. The prior debit to the bank account balance (*i.e.* increase) remained unchanged. This entry was inaccurate because the transfer to Acreage was not bona fide short-term financing provided by Entity A to Acreage.

30. During January 2020, multiple Acreage employees raised questions and concerns regarding the propriety of the year-end cash transfers between Entity A and Acreage, including an anonymous complaint submitted through Acreage's compliance hotline service that stated as follows: "There was a sizeable cash movement between Acreage and one of its affiliated entities near the end of the calendar year that seemed to lack a business purpose." These concerns were escalated to a member of Acreage's board of directors ("Director A"), who contacted Officer B on multiple occasions from January 13 through January 15, 2020 with questions and concerns regarding the transfers.

31. On January 17, 2020, Acreage accounting staff recorded a new journal entry at the direction of senior management that inaccurately showed the funds being returned to Entity A on December 31, 2019, three days before the return wire actually occurred, with a debit to "Other Current Liabilities" (*i.e.* a decrease) and a credit to Acreage's bank account balance (also a decrease) as of December 31, 2019, in the amount of the transfer. This entry effectively reversed the transaction from an accounting perspective and negated any net impact on Acreage's publicly reported financial statements, essentially treating the cash transfers as if they had both occurred in December 2019. This entry was made a few days after Director A began questioning Officer B about the round-trip cash transfer.

32. Because these cash transfers lacked any economic substance or legitimate business purpose, Acreage's journal entries were inaccurate to the extent that the journal entries accounted for the transfers as either a repayment of debt by Entity A or short-term financing extended to Acreage by Entity A, and inaccurately recorded the return of the funds to Entity A as if it had occurred on December 31, 2019.

D. False and Misleading Documents Provided to Audit Firm A

33. In May 2020, Acreage created and provided two documents to Audit Firm A in connection with the audit of Acreage's FY 2019 financial statements that contained materially false and misleading statements regarding the year-end cash transfers with Entity A.

34. On May 28, 2020, Officer B sent an email to Audit Firm A in which he referenced the anonymous complaint that had been submitted through Acreage's compliance hotline service and described the complaint as "indicating that [Acreage] had erroneously reported [its] cash balance at year end 2019 as a result of cash erroneously received from [Entity A]." Officer B went on to state in the email that the cash transfer that Acreage received from Entity A in December 2019 was "for repayments of an outstanding loan and management fee," but that the transfer was "determined to be an incorrect cash payment made at the [Entity A] level" and the "money was returned to [Entity A] on January 2, 2020 once the error was identified."

35. These statements were materially false and misleading because, as the facts detailed above demonstrate, (a) Entity A did not wire the money to Acreage in error or as a bona fide repayment of the line of credit or management fee, but rather because members of Acreage's senior management had directed Entity A's CEO to send the money to Acreage and assured him that Acreage would return the exact same amount a few days later, in early January; and (b) Acreage returned the money to Entity A in early January not because an error by Entity A was subsequently identified, but because Acreage planned from the outset to return the money to Entity A in early January. Officer B did not disclose those facts to Audit Firm A. Nor did Officer B disclose that he was one of the members of Acreage's senior management who had participated in directing the cash transfers, or that the purpose of the round-trip transfer was to temporarily increase Acreage's cash balance at the end of FY 2019.

36. On May 29, 2020, Acreage provided Audit Firm A with its management representation letter in connection with the FY 2019 audit, which Officer A and Officer B signed on Acreage's behalf. The letter referenced Officer B's May 28, 2020 email, stating as follows: "Except as discussed in a memo provided to you on May 28, 2020, we have not received any communications, nor do we have knowledge of any fraud, allegations of fraud or suspected fraud affecting Acreage involving" management, employees who have a significant role in internal control or others. These statements were also materially false and misleading because the letter incorporated by reference the statements in Officer B's email without disclosing the facts set forth above.

Violations

37. As a result of the conduct described above, Acreage violated Section 13(b)(2)(A) of the Exchange Act, which requires Exchange Act reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company.

Undertakings

Respondent undertakes to:

38. Cooperate fully with the Commission in any and all investigations, litigations or other proceedings relating to or arising from the matters described in the Order. In connection with such cooperation, Respondent shall:

- a. Produce, without service of a notice or subpoena, any and all non-privileged documents and other information requested by the Commission staff subject to any restrictions under the law of any foreign jurisdiction;
- b. Use its best efforts to cause its officers, employees, and directors to be interviewed by the Commission staff at such time as the staff reasonably may direct;
- c. Use its best efforts to cause its officers, employees, and directors to appear and testify without service of a notice or subpoena in such investigations, depositions, hearings or trials as may be requested by the Commission staff; and
- d. In connection with any testimony of Respondent's officers, employees, and directors to be conducted at deposition, hearing, or trial pursuant to a notice or subpoena, Respondent:
 - i. Agrees that any such notice or subpoena for Respondent's officers', employees', and directors' appearance and testimony may be served by regular or electronic mail on: Joseph Dever, Esq., Cozen O'Connor LLP, 175 Greenwich Street, 55th Floor, New York, NY 10007; JDever@cozen.com.
 - ii. Agrees that any such notice or subpoena for Respondent's officers', employees', and directors' appearance and testimony in any action pending in a United States District Court may be served, and may require testimony, beyond the territorial limits imposed by the Federal Rules of Civil Procedure.

In determining whether to accept the Offer, the Commission has considered these undertakings.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Acreage cease and desist from committing or causing any violations and any future violations of Section 13(b)(2)(A) of the Exchange Act.

B. Acreage shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$225,000.00 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 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 Acreage Holdings, Inc. 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 Thomas P. Smith, Jr., Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

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